# CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

April 18, 2013 Meeting Agenda Item 4

**SUBJECT:** Knight Residence (PA2013-044)

312 Hazel Drive

Ou Residence (PA2013-043)

316 Hazel Drive

APPLICANT: Diane Knight and Honzen Ou

**PLANNER:** Makana Nova, Assistant Planner

(949) 644-3249, mnova@newportbeachca.gov

## **PROJECT SUMMARY**

Appeals of the Community Development Director's determination of the canyon development stringlines pursuant to General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 for two single-family residential properties adjacent to Buck Gully.

# **RECOMMENDATION**

- 1) Conduct a de novo public meeting;
- 2) Adopt Resolution No. \_\_\_ modifying the decision of the Community Development Director and establishing canyon development stringlines for principal and accessory structures at 312 Hazel Drive pursuant to General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 (Attachment No. PC 1); and
- 3) Adopt Resolution No. \_\_\_ modifying the decision of the Community Development Director and establishing canyon development stringlines for principal and accessory structures at 316 Hazel Drive pursuant to General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 (Attachment No. PC 2).

# **BACKGROUND**

On April 3, 2013, the Planning Commission, at the request of the appellants, continued the appeal meeting to April 18, 2013. The staff report from the April 3, 2013, meeting is attached (Attachment No. PC 1) and no additional information or changes are recommended.

# **PUBLIC NOTICE**

The April 3, 2013 meeting was noticed pursuant to the Municipal Code. Since this item was continued to a date certain, no additional notice was required.

Prepared by: Submitted by:

Brenda Wisneski, AICP, Deputy Director

# **ATTACHMENTS**

PC 1 Staff Report, April 3, 2013 Planning Commission Meeting

: 07/31/12

# **Attachment No. PC 1**

Staff Report, April 3, 2013 Planning Commission Meeting

# CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

April 3, 2013 Meeting Agenda Item 4

**SUBJECT:** Knight Residence (PA2013-044)

312 Hazel Drive

Ou Residence (PA2013-043)

316 Hazel Drive

APPLICANT: Diane Knight and Honzen Ou

**PLANNER:** Makana Nova, Assistant Planner

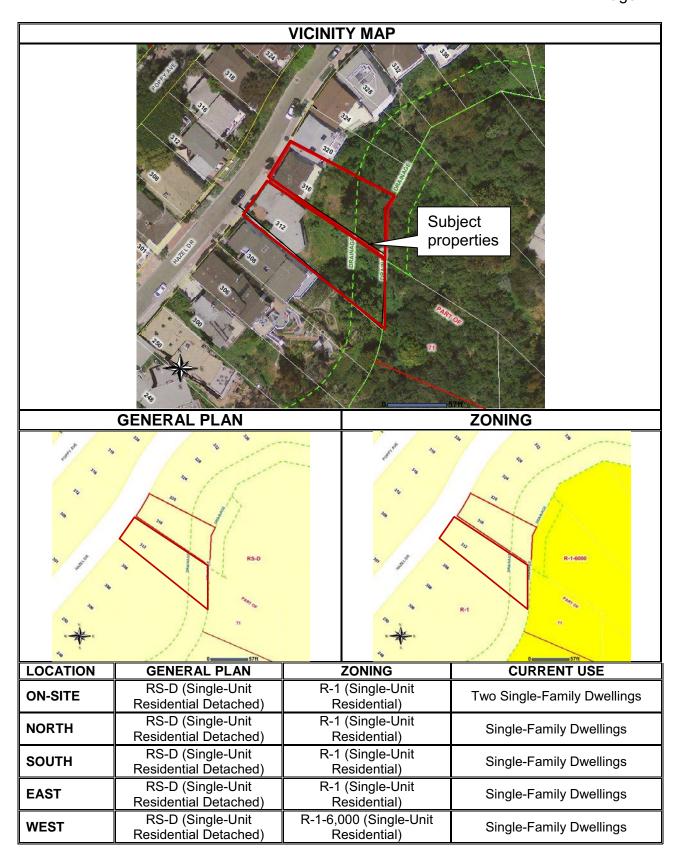
(949) 644-3249, mnova@newportbeachca.gov

## **PROJECT SUMMARY**

Appeals of the Community Development Director's determination of the canyon development stringlines pursuant to General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 for two single-family residential properties adjacent to Buck Gully.

# **RECOMMENDATION**

- 1) Conduct a de novo public meeting;
- 2) Adopt Resolution No. \_\_\_ modifying the decision of the Community Development Director and establishing canyon development stringlines for principal and accessory structures at 312 Hazel Drive pursuant to General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 (Attachment No. PC 1); and
- 3) Adopt Resolution No. \_\_\_ modifying the decision of the Community Development Director and establishing canyon development stringlines for principal and accessory structures at 316 Hazel Drive pursuant to General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 (Attachment No. PC 2).



# INTRODUCTION

# **Project Setting**

The subject properties are located within Old Corona del Mar on Hazel Drive south of East Coast Highway. The neighborhood is characterized by single-family and two-unit residential structures. The adjacent properties are currently developed with single-family residences.

The subject properties are adjacent to each other and slope downward from Hazel Drive into Buck Gully. Buck Gully is considered a coastal canyon and is characterized by vegetation, habitat, and a drainage feature that flows to the Pacific Ocean at the bottom of a ravine. Photos of the sites are provided as Attachment No. PC 3.

# 312 Hazel Drive - Knight Residence

The 7,546-square-foot property was initially developed in 1953 with a 1,540-square-foot single-family residence. On January 10, 2008, the Planning Director issued a letter detailing development limits based on interim criteria created by the City to implement the 2006 General Plan prior to update of the Zoning Code (Attachment No. PC 4). The interim criteria were eliminated upon adoption of the Zoning Code update in 2010. The letter did not address General Plan Policy NR23.6 (Canyon Development Standards) or Coastal Land Use Plan Policy 4.4.3-18, nor did it establish a predominant line of existing development (PLOED) or canyon development stringlines at that time. A building permit was issued on August 17, 2009, consistent with the Planning Director's guidance (Attachment No. PC 5). The building permit subsequently expired on January 31, 2011.

#### 316 Hazel Drive - Ou Residence

The 5,661-square-foot property was initially developed in 1949 with a 954-square-foot single-family residence. Construction plans for a new single-family residence were submitted on May 11, 2009, and a building permit was issued on May 24, 2010, (Attachment No. PC 6). Permits were issued based upon the existing development pattern and the anticipated development that had been permitted at 312 Hazel Drive. The building permit associated with 316 Hazel Drive was cancelled on February 9, 2012, at the request of the applicant.

# Community Development Director's Determination

Mr. Honzen Ou, property owner of 316 Hazel Drive, is considering the sale of his lot and inquired if the City would issue permits for the development previously permitted in 2010. After thorough review of the previously approved plans and the existing development pattern of abutting lots, the Community Development Director determined that the plans were not consistent with General Plan Policy NR23.6 (Canyon

Development Standards) and Coastal Land Use Plan Policy 4.4.3-18. The letter also included a figure showing canyon development stringlines that were determined to be consistent with General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 (Attachment No. PC 7).

Ms. Diane Knight, property owner of 312 Hazel, is also considering the sale of her property, and a prospective buyer inquired if the City would reissue permits for the previously permitted construction. Again, after a thorough review of the previously approved plans and the existing development pattern of abutting lots, the Community Development Director determined that the previous plans were not consistent with General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18. Additionally, the letter included a figure showing canyon development stringlines that were determined to be consistent with General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 (Attachment No. PC 8).

As stated above, an interim criterion was utilized to establish the development limits in 2008, which was eliminated with adoption of the Zoning Code update in 2010. Therefore, development potential is determined by applying the General Plan and Coastal Land Use Plan policies.

# <u>Appeals</u>

On February 25, 2013, Honzen Ou, filed an appeal (Attachment No. PC 9) of the Community Development Director's determination for 316 Hazel Drive. On February 28, 2013, Diane Knight, property owner of 312 Hazel Drive, joined Mr. Ou's appeal (Attachment No. PC 10). Staff notes that the Planning Commission is not bound by the Community Development Director's decision and is not limited to the issues raised in the appeal.

# **DISCUSSION**

Both lots are designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element. The properties are designated RSD-A (Single-Unit Residential Detached) by the Local Coastal Program, Coastal Land Use Plan. Both lots are within the R-1 (Single-Unit Residential) Zoning District, allowing single-family residences with appurtenant structures and uses. Development of single-family residences on these lots does not require Coastal Development Permits provided the development is consistent with Categorical Exclusion Order E-77-5.

Canyon development setbacks or stringlines are established to protect coastal canyons as a natural and visual resource. Natural Resources Goal NR23 of the General Plan, relating to visual resources, provides:

"Development respects natural landforms such as coastal bluffs."

Several policies of the General Plan support Goal NR23, three of which are directly applicable to development along coastal canyons.

1. General Plan Policy NR23.1 (Maintenance of Natural Topography) provides:

"Preserve cliffs, canyons, bluffs, significant rock outcroppings, and site buildings to minimize alteration of the site's natural topography and preserve the features as a visual resource. (Imp 2.1)"

This policy recognizes coastal canyons, including Buck Gully, as a visual resource and emphasizes the consideration of topography and natural landforms to implement Goal NR23 of the General Plan.

2. General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 establish the following development restriction for Buck Gully and Morning Canyon:

"Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements."

This policy requires the establishment of canyon development setbacks based upon a predominant line of existing development (PLOED). To date, the City has not established a PLOED in either Buck Gully or Morning Canyon. The establishment of canyon development setbacks is anticipated with the preparation of the Local Implementation Plan (LIP) that is currently under way. The policy prohibits development beyond stringlines drawn between development on adjacent lots.

The objective of implementing canyon development setbacks is to provide flexibility, equity, and certainty for property owners while preserving coastal canyons as a natural and visual resource.

3. General Plan Policy NR 23.7 (New Development Design and Siting), states:

"Design and site new development to minimize the removal of native vegetation, preserve rock outcroppings, and protect coastal resources. (Imp 2.1)"

This policy recognizes the need to consider natural topography in the site design process and to achieve a balance between private property development and the protection of natural resources.

#### Policy Implementation

General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 are specific to establishment of development limits along coastal canyons. In the absence of an established PLOED for either Buck Gully or Morning Canyon, staff utilizes stringlines, as prescribed by the policies, to review development for the canyon-facing properties. A combination of techniques is typically utilized on a case-by-case basis, including the review of surveys showing structures on the subject property and adjacent properties, topographic maps, aerial photographs, photos of the subject properties, permit history, and site visits to determine the location of stringlines for principal structures and accessory improvements.

# **Stringlines**

The development canyon stringlines established by the Community Development Director for subject the properties were drawn from the nearest adjacent corners development of the two abutting lots. The figure to the right is a representation of the stringlines provided in Attachment Nos. PC 7 and PC 8.

For 312 Hazel Drive, the principal structure stringline was drawn between the nearest adjacent corner of the principal structures at 308 Hazel Drive

and the corner of the retaining wall at 316 Hazel Drive. The accessory improvement

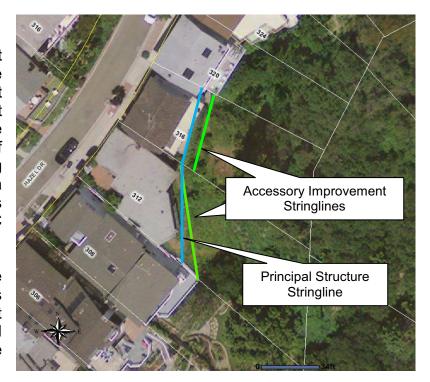


Figure 1. 2013 Community Development Director Determinations Based on Adjacent Structures

stringline was likewise established between the nearest adjacent corner of the deck line and retaining wall on 308 Hazel Drive and 316 Hazel Drive, respectively.

For 316 Hazel Drive, the principal structure stringline was identified at the location of the existing retaining wall. Since there are currently no accessory structures extending beyond the principal structures on either adjacent property, the accessory structure stringline was established as a parallel line to the principal structure development line

eight feet farther out. This accessory structure line is inline with the deck line at 320 Hazel Drive. This provides sufficient useable space for a deck or other accessory structures to extend out beyond the principal structure.

By comparison, Figure 2 depicts the lines associated with the approval of the two prior building permits. The building permit issued for 312 Hazel Drive was used to set a development line for future construction at 316 Hazel Drive.

# **Modified Stringline**

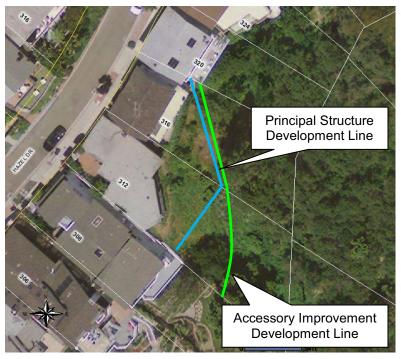


Figure 2. 2008/2009 Planning Director Determination Based on Interim Criterion

Upon further review of the General Plan and Coastal Land Use Policies, as well as existing conditions of the area, staff recommends a modification of the stringlines originally determined by the Community Development Director. The modified stringlines are drawn from existing development on either side of the combined sites (312 and 316 Hazel Drive). Staff feels that these stringlines, as identified in Figure 3 on the following page, are consistent with General Plan Policy NR23.6 and Coastal Land Use Plan Policy 4.4.3-18 in that they continue to apply a stringline method of analysis. The resulting stringlines closely follow the topographic contours, appear to follow the predominant pattern of development over this portion of Buck Gully, and stay free of jurisdictional delineations, thus protecting Buck Gully as a natural and visual resource. The modified stringlines would also offer more development area than that provided by the individual stringlines identified for each lot (Attachment Nos. 7 and 8), but they would not permit the extent of development previously permitted in 2009/2010 and sought by both appellants.



Modified Stringline Recommendation

# **Appeals**

The appellants have identified the following points in their appeals, provided as Attachment Nos. 9 and 10:

a. They were not advised of the potential change of the development limits if the building permits were to expire.

Staff notes that the property owners were sent notices from the City regarding the impending expiration of permits due to construction inactivity. The notices were routine and did not indicate whether permits could be reissued in the future for the same development. Permits are issued based upon applicable regulations and policies in effect at the time of issuance so there is never a guarantee that permits once issued can be reissued as regulations change over time.

b. The stringlines identified by staff provide a smaller building footprint and smaller future house when compared to what was previously permitted, resulting in a significant loss of future property value.

Staff acknowledges that a more restrictive development envelope would lead to a smaller building footprint that might not be valued as highly as a larger building. The previously issued permits were based on an interim criterion, which is no longer applicable.

c. The cost associated with the preparation and processing of the previous plans and permits will be lost. Preparing and processing new plans for permitting will be costly.

The City is not obligated to issue permits allowing development to the extent previously permitted based upon the issuance of those prior permits or the cost to prepare the prior plans.

d. Staff's determination using the stringline method is arbitrary, unnecessarily restrictive, and contrary to the previously established development limits.

Staff disagrees that the use of stringlines is arbitrary. The use of stringlines to regulate development is provided by General Plan and Coastal Land Use Plan policy and will be implemented until a PLOED is enacted by City ordinance or policy. In regards to the suggestion that property rights are being denied; staff disagrees. The lots on Hazel Drive along Buck Gully differ in size, shape, orientation, topography, and are developable based on these physical attributes. As a result of these physical attributes, the resulting building footprint may differ from the development pattern identified on other the portions of Buck Gully.

e. The stringlines established by the Community Development Director deprive the owner of rights enjoyed by adjoining property owners.

Property owners have a right to develop their properties consistent with applicable land use regulations, and for both of these properties, development limits are influenced by the adjacent development.

## <u>Summary</u>

The City is not obligated to permit development consistent with the previously issued permits, which were based on an interim criterion which is no longer in effect. Staff recommends the establishment of canyon development stringlines for each of the subject properties as shown in Figure 3, above.

# <u>Alternatives</u>

The Planning Commission could:

- 1. Uphold the Community Development Director's original determinations, as shown in Attachment Nos. 7 and 8; or
- 2. Identify different stringlines for principal and accessory structures.

## **Environmental Review**

The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures). The Class 3 exemption includes the construction of one single-family residence. The subject appeals involve the potential for the future redevelopment of two existing single-family residences on two individual properties (one unit per property). The existing structures may be partially or fully demolished. Therefore, the proposed project qualifies for an exemption under Class 3.

# Public Notice

Notice of these appeals was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of both sites (excluding intervening rights-of-way and waterways) including the applicants, and posted on the subject properties at least 10 days prior to the meeting. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Makana Nova Assistant Planner Submitted by:

Brenda Wisneski, AICP, Deputy Director

# **ATTACHMENTS**

- PC 1 Draft Resolution for 312 Hazel Drive
- PC 2 Draft Resolution for 316 Hazel Drive
- PC 3 Site Photos
- PC 4 Development Limit Determination for 312 Hazel Drive dated January 10, 2008
- PC 5 Original project plans for 312 Hazel Drive
- PC 6 Original project plans for 316 Hazel Drive
- PC 7 Development Limit Determination for 316 Hazel Drive dated February 7, 2013
- PC 8 Development Limit Determination for 312 Hazel Drive dated February 15, 2013
- PC 9 Appeal Application for 316 Hazel Drive
- PC 10 Appeal Application for 312 Hazel Drive

: 07/31/12

# **Attachment No. PC 1**

Draft Resolution for 312 Hazel Drive

| RESOLUTION NO. |
|----------------|
|----------------|

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH MODIFYING THE DECISION OF THE COMMUNITY DEVELOPMENT DIRECTOR ESTABLISHING CANYON DEVELOPMENT STRINGLINES PURSUANT TO GENERAL PLAN POLICY NR 23.6 AND COASTAL LAND USE PLAN POLICY 4.4.3-18 FOR 312 HAZEL DRIVE (PA2013-044)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

- 1. On February 15, 2013, the Community Development Director identified canyon development stringlines pursuant to General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan (CLUP) Policy 4.4.3-18 consisting of a primary structure stringline and an accessory improvements stringline for 312 Hazel Drive, and legally described as Lot 48, Block A, Tract 673.
- 2. An appeal of the Community Development Director's determination was filed by the property owner Diane Knight. The appeal requests the approval of canyon development stringlines similar to or identical to that shown on construction documents identified as Building Permit No. X2008-1618, which was issued on August 14, 2009, and expired on January 31, 2011, due to inactivity.
- The development associated with Building Permit No. X2008-1618 was determined to be consistent with interim criteria created by Ordinance No. 2007-3, which is no longer in effect.
- 4. The subject property is designated Single-Unit Residential Detached (RS-D) by the General Plan Land Use Element allowing the development of a single family residence on the property. The property is also located within Buck Gully and is subject to General Plan Policy NR23.6 (stated below) that provides development standards for the canyon.
  - "Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements."
- 5. The property is designated Single Unit Residential Detached (RSD-B) by the Coastal Land Use Plan allowing the development of a single family residence on the property. Due to the location of the site within Buck Gully, development is subject to CLUP Policy 4.4.3-18 that provides canyon development standards identical to General Plan Policy

- NR23.6. The subject property is located within the categorical exclusion area of the coastal zone.
- 6. The subject property is zoned R-1 (Single-Unit Residential) allowing the development and use of a single family residence.
- 7. A review of the goals and policies detailed in the General Plan and Coastal Land Use Plan, as well as the existing conditions, justifies modification of the Community Development Director's initial determination of the string line location, as shown in Exhibit A.
- 8. A public hearing was held on Wednesday, April 3, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting..

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The development of the site with one, single family residence is categorically exempt from the environmental review pursuant to Section 15303 of the Implementing Guidelines of the California Environmental Quality Act. This exemption covers the new construction or conversion of small structures including a limited number of single-family homes.

#### SECTION 3. REQUIRED FINDINGS.

#### Finding:

A. Development of the subject property to the extent proposed by the appellant does not conform to General Plan Policy NR23.6 and CLUP Policy 4.4.3-18.

# Facts in Support of Finding:

- A-1. No canyon development setback based upon a predominant line of existing development has been established pursuant to General Plan Policy NR23.6 and CLUP Policy 4.4.3-18 for Buck Gully or the subject property.
- A-2. Development to the extent depicted on Building Permit No. X2008-1618 was based on Design Criterion No. 7 relating to landform alteration as established by Ordinance No. 2007-3, which is no longer in effect. Development to the extent depicted on Building Permit No. X2008-1618 would not fall within a development stringline drawn between existing development located on the adjacent properties (312 and 320 Hazel Drive) and would extend beyond said stringline.

# Finding:

B. The development stringlines for principle structures and accessory improvements, as depicted in Exhibit A, are consistent with General Plan Policy NR23.6 and CLUP Policy 4.4.3-18.

# Facts in Support of Finding:

- B-1. In the absence of an established predominant line of development, the stringline method is utilized as prescribed in the policies to determine the appropriate development limit. As specified in the language of the policies, the principal structure and accessory improvement stringlines are drawn from existing development located on the adjacent properties. The principal structure stringline is drawn between the nearest adjacent foundation of the existing principle structuresat 308 and 320 Hazel Drive. The accessory improvement stringline is drawn between the existing decks located on adjacent propertiesat 308 and 320 Hazel Drive.
- B-2. The subject property at 312 Hazel Drive occurs at a transition between a smaller and larger block in the development pattern along Hazel Drive. The consideration of 312 and 316 Hazel Drive together connects these two development patterns and follows the topography of the canyon to protect Buck Gully as a natural landform and visual resource per General Plan Goal NR23, "Development respects natural landforms such as coastal bluffs."

#### Finding:

C. The canyon development stringlines for principal structures and accessory improvements, as depicted in Exhibit A, are consistent with General Plan Policies NR23.1 (Maintenance of Natural Topography) and NR23.7(New Development Design and Siting).

## Facts in Support of Finding:

- C-1. The canyon development stringlines follow the topographic contours of Buck Gully at this location and would reflect the symmetry that occurs in the second block from 312 and 336 Hazel Drive where the drainage pattern curves inward toward Hazel Drive.
- C-2. The canyon development stringlines keep structures clear of drainage easements and California Coastal Commission and California Department of Fish and Wildlife jurisdictional delineations. Establishing development limits outside of these areas is appropriate to minimize alteration of the site's natural topography, minimize physical impacts to habitat areas, and facilitate permit processing for applicants.

# SECTION 4. DECISION.

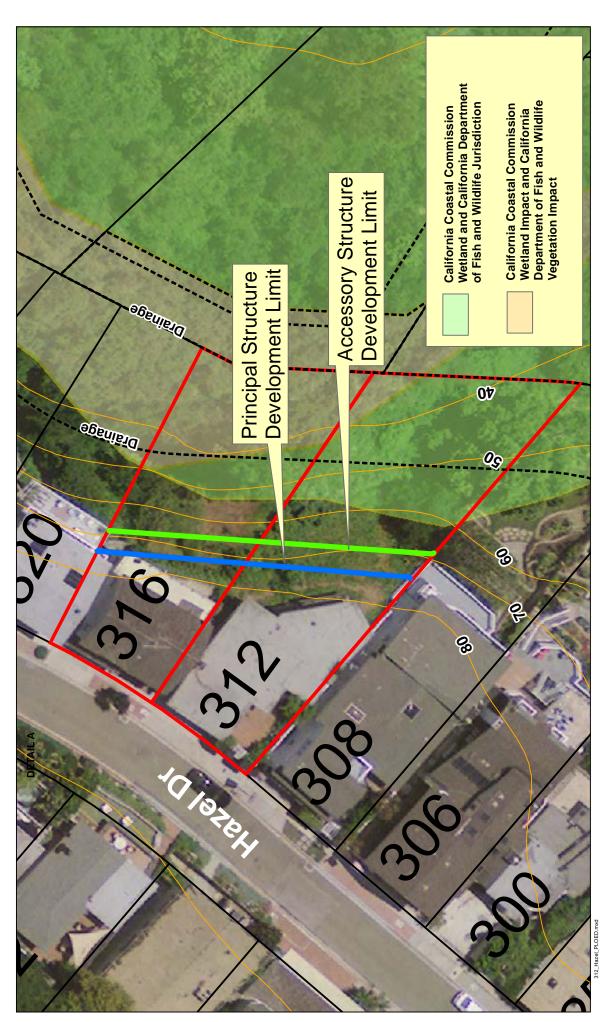
# NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby modifies the Community Development Director's decision and establishes canyon development stringlines for 312 Hazel Drive, subject to the figure set forth in Exhibit A, which is attached hereto and incorporated by reference.
- 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 3<sup>rd</sup> DAY OF APRIL, 2013.

| AYES:                    |
|--------------------------|
| NOES:                    |
| ABSTAIN:                 |
| ABSENT:                  |
| BY:                      |
| Michael Toerge, Chairman |
| BY:                      |
| Fred Ameri, Secretary    |

# EXHIBIT "A"





Canyon Development Stringline 312 & 316 Hazel Drive

# **Attachment No. PC 2**

Draft Resolution for 316 Hazel Drive

| <b>RESOL</b> | UTION NO. |  |
|--------------|-----------|--|
|              |           |  |

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH MODIFYING THE DECISION OF THE COMMUNITY DEVELOPMENT DIRECTOR AND ESTABLISHING CANYON DEVELOPMENT STRINGLINES PURSUANT TO GENERAL PLAN POLICY NR 23.6 AND COASTAL LAND USE PLAN POLICY 4.4.3-18 FOR 316 HAZEL DRIVE (PA2013-043)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

- 1. On February 7, 2013, the Community Development Director identified canyon development stringlines pursuant to General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan (CLUP) Policy 4.4.3-18 consisting of a primary structure stringline and an accessory improvements stringline for 316 Hazel Drive, and legally described as Lot 49, Block A, Tract 673.
- 2. An appeal of the Community Development Director's determination was filed by the property owner Honzen Ou. The appeal requests the approval of canyon development stringlines similar to or identical to that shown on construction documents identified as Building Permit No. X2009-0835, which was issued on May 24, 2010, and was cancelled on February 9, 2012, at the request of the applicant.
- 3. The development associated with Building Permit No. X2009-0835 was determined to be consistent with interim criteria created by Ordinance No. 2007-3, which is no longer in effect.
- 4. The subject property is designated Single-Unit Residential Detached (RS-D) by the General Plan Land Use Element allowing the development of a single family residence on the property. The property is also located within Buck Gully and is subject to General Plan Policy NR23.6 (stated below) that provides development standards for the canyon:
  - "Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements."
- 5. The property is designated Single Unit Residential Detached (RSD-B) by the Coastal Land Use Plan allowing the development of a single family residence on the property. Due to the location of the site within Buck Gully, development is subject to CLUP Policy 4.4.3-18 that provides canyon development standards identical to General Plan Policy

- NR23.6. The subject property is located within the categorical exclusion area of the coastal zone.
- 6. The subject property is zoned R-1 (Single-Unit Residential), allowing the development and use of a single-family residence.
- 7. A review of the goals and policies detailed in the General Plan and Coastal Land Use Plan, as well as the existing conditions, justifies modification of the Community Development Director's initial determination of the stringline location, as shown in Exhibit A.
- 8. A public hearing was held on Wednesday, April 3, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The development of the site with a single family residence is categorically exempt from the environmental review pursuant to Section 15303 of the Implementing Guidelines of the California Environmental Quality Act. This exemption covers the new construction or conversion of small structures including one single-family home.

#### SECTION 3. FINDINGS.

# Finding:

A. Development of the subject property to the extent proposed by the appellant does not conform to General Plan Policy NR23.6 and CLUP Policy 4.4.3-18.

## Facts in Support of Finding:

- A-1. No canyon development setback based upon a predominant line of existing development has been established pursuant to General Plan Policy NR23.6 and CLUP Policy 4.4.3-18 for Buck Gully or the subject property.
- A-2. Development to the extent depicted on Building Permit No. X2009-0835 was based on Design Criterion No. 7 relating to landform alteration as established by Ordinance No. 2007-3, which is no longer in effect. Development to the extent depicted on Building Permit No. X2009-0835 would not fall within a development stringline drawn between existing development located on the adjacent properties (312 and 320 Hazel Drive) and would extend beyond said stringline.

# Finding:

B. The development stringlines for principle structures and accessory improvements, as depicted in Exhibit A, are consistent with General Plan Policy NR23.6 and CLUP Policy 4.4.3-18.

# Facts in Support of Finding:

- B-1. In the absence of an established predominant line of development, the stringline method is utilized as prescribed in the policies to determine the appropriate development limit. As specified in the language of the policies, the principal structure and accessory improvement stringlines are drawn from existing development located on the adjacent properties. The principal structure stringline is drawn between the nearest adjacent foundation of the existing principle structures at 308 and 320 Hazel Drive. The accessory improvement stringline is drawn between the existing decks located on adjacent properties at 308 and 320 Hazel Drive.
- B-2. The subject property at 316 Hazel Drive occurs at a transition between a smaller and larger block in the development pattern along Hazel Drive. The consideration of 312 and 316 Hazel Drive together connects these two development patterns and follows the topography of the canyon to protect Buck Gully as a natural landform and visual resource per General Plan Goal NR23, "Development respects natural landforms such as coastal bluffs."

## Finding:

C. The canyon development stringlines for principal structures and accessory improvements, as depicted in Exhibit A, are consistent with General Plan Policies NR23.1 (Maintenance of Natural Topography) and NR23.7 (New Development Design and Siting).

## Facts in Support of Finding:

- C-1. The canyon development stringlines follow the topographic contours of Buck Gully at this location and would reflect the symmetry that occurs in the second block from 312 and 336 Hazel Drive where the drainage pattern curves inward toward Hazel Drive.
- C-2. The canyon development stringlines keep structures clear of drainage easements and California Coastal Commission and California Department of Fish and Wildlife jurisdictional delineations. Establishing development limits outside of these areas is appropriate to minimize alteration of the site's natural topography, minimize physical impacts to habitat areas, and facilitate permit processing for applicants.

# SECTION 4. DECISION.

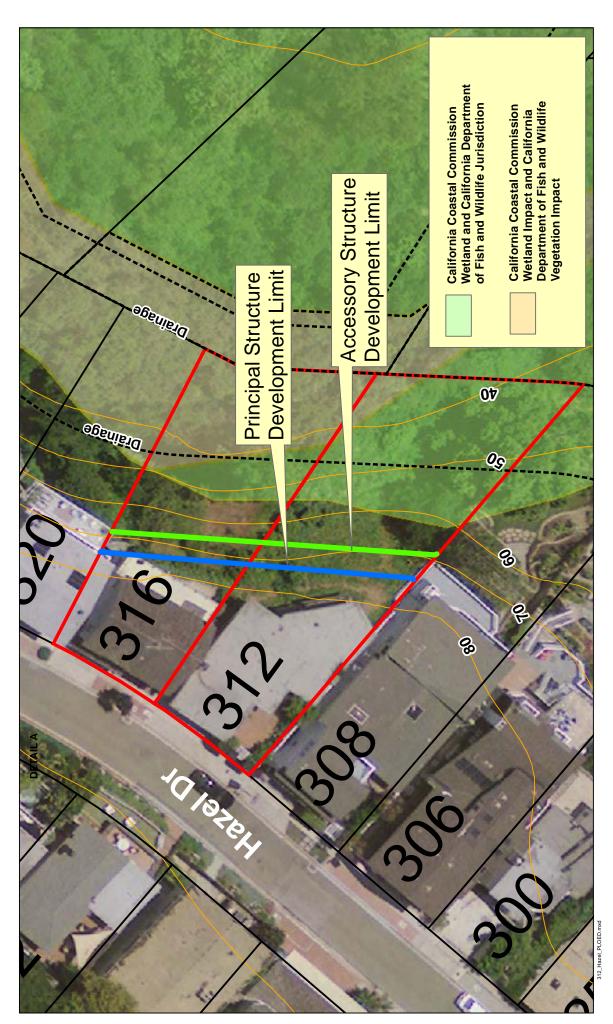
# NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby modifies the Community Development Director's decision and establishes canyon development stringlines for 316 Hazel Drive, subject to the figure set forth in Exhibit A, which is attached hereto and incorporated by reference.
- 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 3<sup>rd</sup> DAY OF APRIL, 2013.

| AYES:                    |
|--------------------------|
| NOES:                    |
| ABSTAIN:                 |
| ABSENT:                  |
| BY:                      |
| Michael Toerge, Chairman |
| BY:                      |
| Fred Ameri, Secretary    |

# EXHIBIT "A"





Canyon Development Stringline 312 & 316 Hazel Drive

# **Attachment No. PC 3**

Site Photos



View of adjacent development north from 312 Hazel Drive



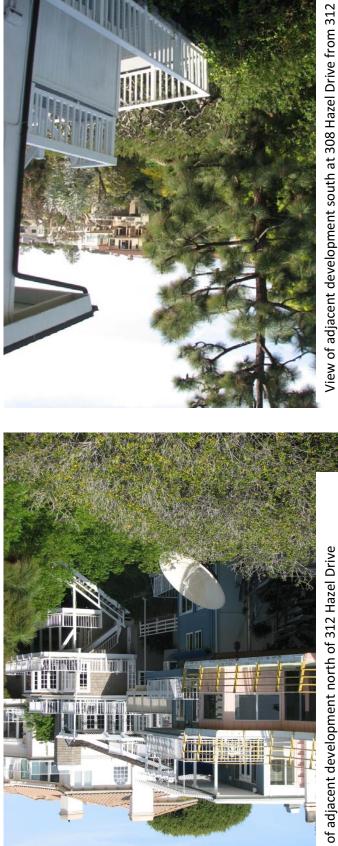
View of Buck Gully vegetation and improvements from 312 Hazel Drive











View of adjacent development north of 312 Hazel Drive



View of slope below 312 Hazel Drive and adjacent to 308 Hazel Drive



View of adjacent development at 316 Hazel Drive from 312 Hazel Drive





View of adjacent development at 312 Hazel Drive from 316 Hazel Drive



View of adjacent development north from 316 Hazel Drive

## Attachment No. PC 4

Development Limit Determination for 312 Hazel Drive dated January 10, 2008



## CITY OF NEWPORT BEACH

## PLANNING DEPARTMENT

January 10, 2008

Deborah M. Rosenthal Bingham McCutchen LLP 600 Anton Boulevard | Suite 1800 Costa Mesa, CA 92626

RE: 312 Hazel Drive

Dear Ms. Rosenthal,

Thank you for you assistance in establishing development parameters for the proposed development at 312 Hazel Drive. As you know, Ordinance No. 2007-3 established procedures for the implementation of the General Plan during the interim period while the Zoning Code and other ordinances and regulations are being updated. Criterion No. 7 states:

Site planning should follow the basic principle of designing development to fit the features of the site rather than altering the site to fit the design of the development. Whenever possible, altering natural features such as cliffs, canyons, bluffs, significant rock outcroppings, natural vegetation should be avoided or the extent of alternation minimized. Adequate buffers should be provided to protect significant or rare biological resources.

After reviewing your exhibits, I have concluded that if the new principal structure does not extend beyond principal structure located at 308 Hazel Drive and steps down the slope as depicted in the simulation in your October 19, 2007 letter, the development will be consistent with Criterion No. 7. As for the proposed accessory structures, if these improvements are terraced as depicted in the simulation and do not extend further down the slope than the first terraced area on the 308 Hazel Drive property, which is within the 54-foot contour line, the development will be consistent with Criterion No. 7. The attached exhibit depicts the approximate line of development for the principal structure and for accessory structures.

Please note that is for purposes of interpreting Criterion No. 7 of Ordinance No. 2007-3 only. This interim ordinance will expire when the new Zoning Code is adopted. New building permit applications will have to comply with the property development regulations contained in the new Zoning Code. At this time, it is estimated that the new Zoning Code will be adopted sometime around mid-year 2008.

312 Hazel Drive January 10, 2008 Page 2 of 2

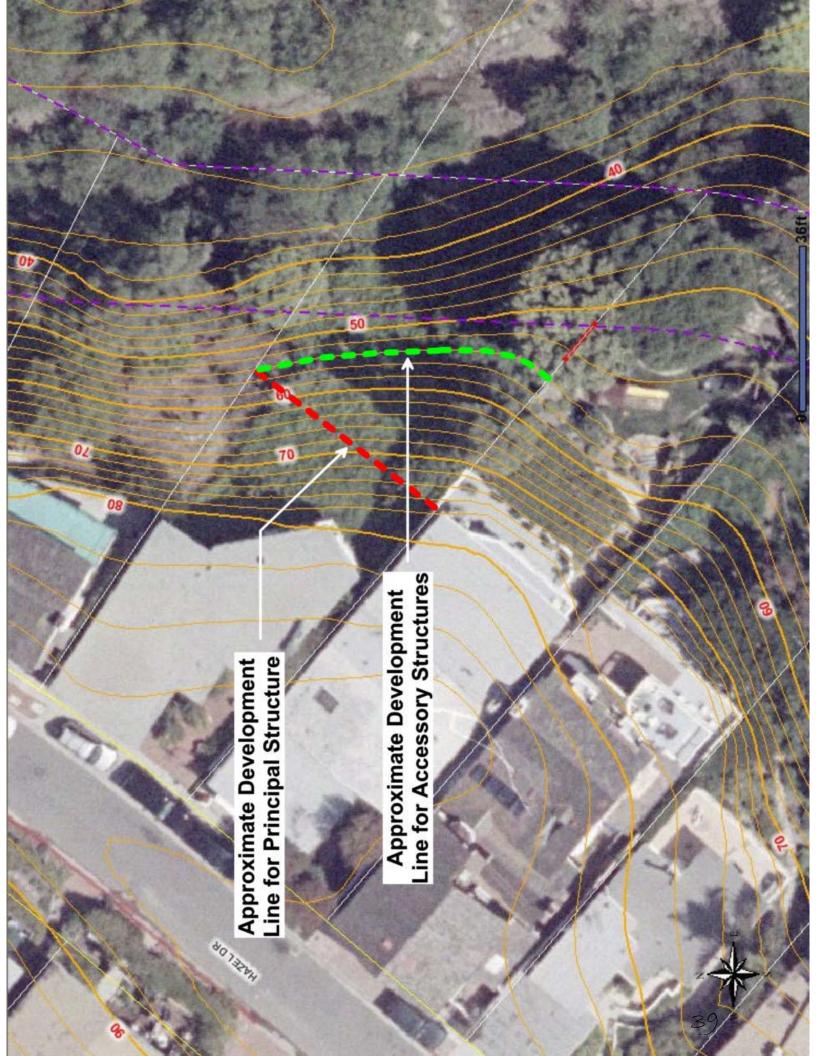
This interpretation was prompted by new direction provided to staff from members of the General Plan/LCP Implementation Committee. It involved policy issues other than those raised in your client's appeal. Therefore, I believe that it is appropriate to refund the \$600.00 filing fee, should your client choose to withdraw the appeal.

As to your request regarding compliance with other City requirements, our ability to perform an analysis was limited as we were only given a partial set of conceptual plans that were not drawn to scale. However, we did route the conceptual plans to other City departments for comments. Copies of their comments are attached and I hope that you find them useful.

Sincerely,

David Lepo

**Planning Director** 



## **Attachment No. PC 5**

Original project plans for 312 Hazel Drive

# Seneral Notes

intert of these drawings is to provide a compace and fished job in all sects. Accordance or a new account field "specified of elegates of job. Entres will not be obsered unless extended by the center and architect. Authorized Changes and Revisions. To the scope of work.

ten dinersions on diourings shot take precedence over dinersions sociéd in the docaigne. A dinembra offecting materials of equipment with specific names stall be verified by the contractor and/or supplier in the field.

connection and the respective "C. richting, andered; and andered; and approaching properties in connective with their wate, and for "Chindring proposition in pages "I in connective with their wate, and for "Chindring properties in such control and associated and water their and and an extension of their analysis of t

when and "we'ten terroomy surfaces and dust proof and from the control of control of the control

Sywood and plywood products used as exterior covering on wake, soffits and in other areas exposed directly to weather shor be exterior grade.

Pleatent authors on wells, estings are selfits exceed to the weether shall have retrieve this and pleate conforming to CBS Section 1291 and 25.2 respectively interior place mellicular per Section 2310.52 my, as applied over gypsam liath on callings and artifler.

imblock stud wats and particles including fursed spaces at foors, cellings and administratory and verticals.

cess and ventilation in accordance with CBC Section 1209.1, "203.3, spectively and as shown on the draings to crow spaces and plumbin lacations with the analyses prior to construction.

and worly that all capper water supply lines are sized sure and volume and shall connect waste lines to sower ventilation as required by the Uniform Plumbing Sode.

is coors and windows shall be certified and obesid to show compile in inflations studied as the 1972-548 (A.S.). Let, A. new glocing with someonic of the U.S. Consumer Proceed, South someonic of the U.S. Consumer Proceed, South South

Every exit door shall be operable from the inside without the use of a vey or any special knowledge or effort. Special locking devices stall be of an approved type per THe 19 and CBC Chapter 10.

Sinsa dora, Travo-doon, adjocent glozed parals ora sidelights and all gased portes with 18" of the floor or door opening shall have tempered glass or perse agroved for impact housed. (And DSP Reguations)

31. All posts plotes and see masony sha! be pressu

The Contractor shot provide os-built de concepted work before find, inspect: I. Where specified items are called for Contractor may submit a tempte mail Archest.

A Three shall be those or beading an enable for the face facilities the beading and the shall be the shall be

The state places are according to the CLI LLDS Science in the CLI LLDS Science

12. A resport to grant 3 majors. Central City for procedural information.

13. The response grant 3 majors. Central City for procedural information.

14. The response grant 3 majors are consistent of contract c ide 4 - No. 4 retor full height with #2 hoop the of '8' b.c. with 2 - #2 feets. Another chimney to building at sect cofing and foor line per Sector 2113.

# Security Notes

All examine doors or glazing less than 16 % capes the grade of any objecting yets, about passagement, park is defined to a "si'd, breakeney, park, planter, porth, od s'hing rood, oblateny, transer, and trace, addition or shring one that is accessable by the pub's shall example, with the following security requirements:

in at wood doors that car not less thom \$1/10" this cost not most throw 300 as,
we share with the last 15/10" that cost of "winner width.

The spiral modestable with the outdoor yet in a re-responsible type.

These of word probes on in-suriging scores that are one pleas contraction with

way one coor has which aft at the last's place at the one pleas contraction with

way one coor has which aft at the last's place at the door short in the

# Design/Build Notes

Jesign/Build Electrical Notes

All conduits to be conceded at citied and surd surd surdes access on either an underly, seations, therefore, etc. to be centered or co digned with each other, 4D Lument-Wild to wiponers for present for the histories and recens with each together or or present for the histories and recens with each together or the formal control survey.

PMC are hot water system pipe issulation shall comply with "24-2-5312 and table 2 -25 of the energy ellicitorisy stancards.

A/ tending duct system shall be constructed, insta ed, sealed and insulated as specified in Chapter 10 of the State Meancrice, Code (716-24, Pert 4) 724—2-5316. 5. A HAVC ductwork shall be run with's designated croses and within enclosed spaces of the first and second floor critings.
6. Mechanical system to conform to the 2007 CMC.

Duts piercing well between house living area and garage shall be 26 GA G.1. material in the goinge secret on egas, and no openings has garage. Bechanica vent alon systems for ticlet compartments, bothstoors, ic.-165 and similar rooms sho be copable of providing (3) air charges per haur directly to the cutside.

AE HANC equipment shall be fished by an approved testing agency and installed in accordance with that listing.

ext. v. N. N. det de control et moye de control de control de moye de control de control

Longe Socia Dateil i.e. Browing Sheet A.700

# esign/Build Demo Notes

2. All work shall be performed in accordance with the City of Newcort and all State, and Municipal Authorities having jurisdiction over the work.

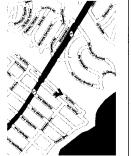
4. The Contractor and visit the size and constant warmine werk of this Section so to become formion with the world, occuliants and notices and scape of mark a effectives that distend its execution.

Structural Observation



## Location Map

Architectural Abbreviations



| 312 Hoze Br<br>Carona del Nor. CA 92625 | Lot: 45, Bock A, Tract 573<br>052 152 19       | Erik Sapolewski and Diane Keight<br>949,939,1405 | Nav Sirgle Family Residence w/ (2)<br>Garage, Landscape/Hordscape | Craig Schulz – Loidie Schulz Arch<br>License (20228)<br>3111 Secord Avene<br>Corons del Mar. CA 92625<br>Froce 949,645,9982 FAX 949,645,9 | Hooshong Mahan, P.E.<br>License € C-67157<br>17 Coroxal Dr.<br>Fouth: Roner, CA 92810<br>Phone 540 414 470 FeW 949 R50 5. |
|---|--|--|---|---|---|
| Project Address:                        | Usgal Description:<br>Assessors Parcel Number: | Owner:   | Project, Description:   | Arethen   | Strature:   |

PRIOR TO PERFORMING AN WORK IN CITY RIGHT-OF-WA AN ENCROACHMENT PERM MUST BE OBTAINED FROM TH PUBLIC WORKS DEPARTMEN

Project Data

The state of the s

X2008 - 11018

| Upper Level:            | 1015 s.f.                            |
|-------------------------|--------------------------------------|
| Street level:           | 1850 s.f. (incuding 442 s.f. garage) |
| cower Level:            | 2035 s.*.                            |
| Basement Level:         | 784 s.f.                             |
| Mech.Basement Level:    | 163 s.c.                             |
| Total Ros- Area:        | 5,827 s.f.                           |
| Lot Area:               | 7,545 a.f.                           |
| Bullodble Area:         | 3,932 s.f.                           |
| floor Area Limit:       | 3,932 s.f. x 1.5 = 5,898 s.f.        |
| Porkings                | 2 Covered, 1 Uncovered               |
| Occupancy/Construction: | R-3/U Type VB - w/aprinklers         |

Building Section i.e. Browing Sheet A.400 Detail Settlan i.e. Brawing 1, Sheet A.700 Deviton i.e. Drawing 1, Sher, A.300

Architectural Symbols

Arco
Arco
Arco
Arco
Arco
Arco
Sees

Sobolewski Residence 312 Hazel Drive Corona del Mar, CA 92625

general notes and inform

Door Symbol RE: Door Scheduli Sneet A.CC2

merior Elevation Room Number

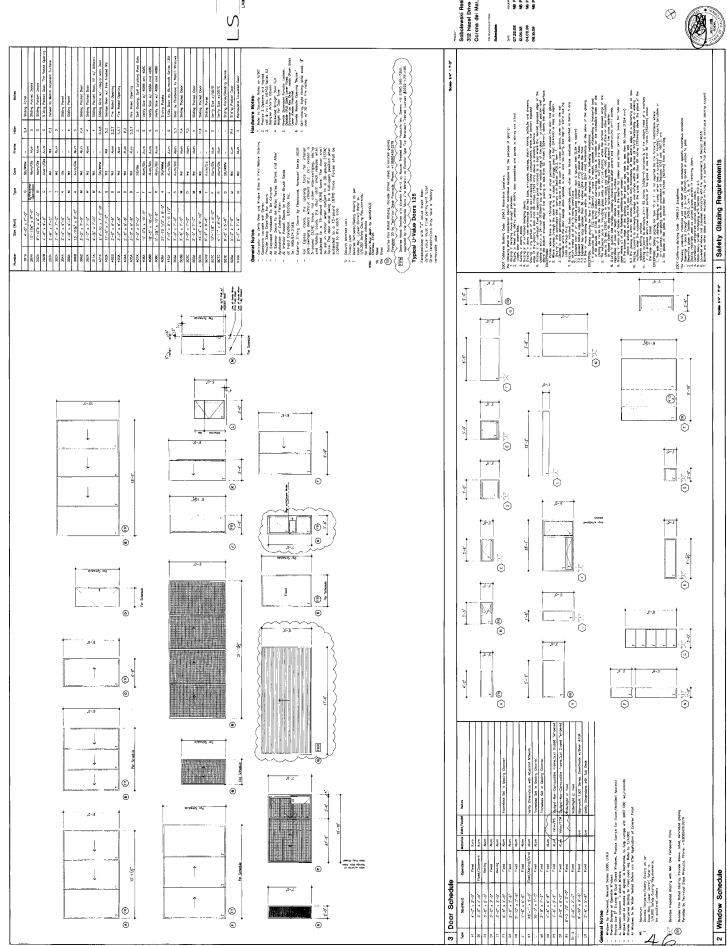
| \\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\  | 8                       |  | ý   | _   |  |   |   |
|---|-------------------------|--|---|---|--|---|---|
| Basement Power and Communication Main Power and Communication Upow Power and Communication Upow Power and Communication | -6                      | Structurel Structurel St.1 Gereral Notes Su.7 Condensed Notes                                  | Pariot Foundation Fran<br>Equipment Room Leve.<br>Foundation Plan Basement Leve | Lower Level Framing and<br>Retaining No. 3<br>Moir Lisve: Framing and | Foundation Plan Upper Level Framing Plan Roof Framing Plan Building Sections | Structural Detaits Structural Detaits Structural Detaits Moment Francing and Structural Detaits   | Structural Details Temperary Shoring Flore and Elevations Temperary Shoring Elevations  |
| A508<br>A508<br>A508  |                         | Skin   | SILI  | \$1.2   | 2 P 2  | SS22  | SW 2 SW 2   |
| List of Drawings Archiectural Acci General Notes  |                         | S Page states Approveds  Day states (argued May and)  Day states (bear coverage Plan  Tall Age |   |   | ,  | Devetor<br>Devetor<br>Building<br>Building  | 2 3. ding Sections 3 8. ding Sections 5 Building Sections 6 Building Sections 1 Equip. Reflected Calling Plan 1 Bearrant Reflected Calling Plan |
| Liss A  | A.002<br>A.003<br>A.003 |  | A 4 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5   | 4200<br>4200<br>4200<br>4200<br>4200<br>4200<br>4200<br>4200          | \$\$\$\$\$   | 4,502<br>4,502<br>4,603<br>4,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603<br>1,603 | A 403<br>A 500<br>A 500<br>A 500  |



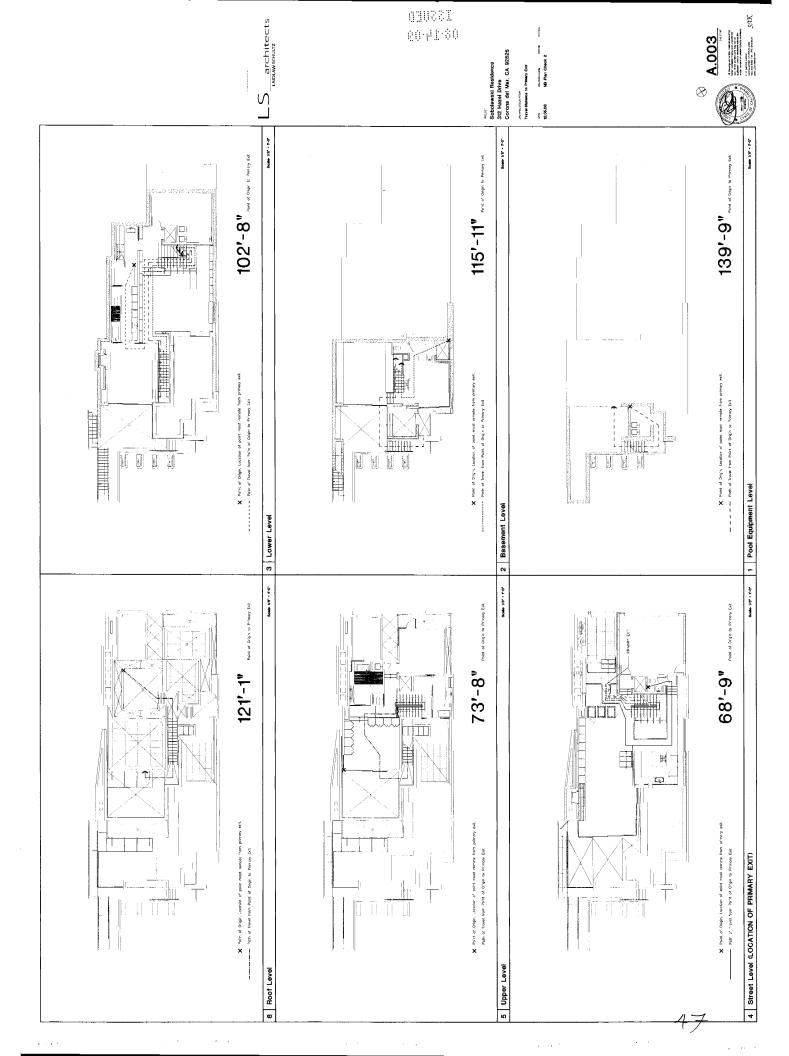


A.001a

|                                     | LS architects  | Sobolewski Residence St. Place in Pre- St. Place | A.001a |
|-------------------------------------|--|--|--------|
|                                     | THE MINISTER OF SECURITY CONTROL OF SECURITY C | CONTROL OF STATES AND  |        |
| Inspections per Structural Engineer | SPEC. METETION & CHAIRT SCHOOLER TAN.  SCHOOLER STREET, STREET, SCHOOLER SCHOOLER STREET, SCHOOLER SCH | TOTAL AND THE CONTROL OF STATE |        |
|                                     |  |  |        |
|                                     |  |  |        |
|                                     |  |  |        |



1550E) 08:14:09



| ® Certificate of Conformance and License (CCL) |  |
|--|--|

| famylacturer 426<br>Bux AMBROANC        | 8 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 9 | ;                  | 4   | _         |                 |                    |                                |                  |  |
|---|---|--------------------|---|-----------|-----------------|--------------------|--------------------------------|------------------|--|
| O BOX 6001                              |   | 3                  | <u> </u>  |           |                 |                    |                                |                  |  |
| REPRINCED SC 2004-6031                  | C 2986-6031                             | 400.000            |   | _         | Operator Type:  | žbe:               |                                |                  |  |
| ET (100) 14134                          | NCS:                                    |                    |   | ]         | Base Model: ALL | T 4                |                                |                  |  |
| coloct.No.                              | Poduct Name                             | Stendard           | Rating  | Wide      | High            | Test Report 6      | CertDate                       | Ceribate ExpBute |  |
| 261460700 0                             | GFS 306 3006                            | ASTME-100-25.      | Wind Zone S, Missile<br>Level C, Dyce Press<br>+47.47     | 750mm     | 1126m-          | BECONO.: 10-44     | 00022000                       | 1102/2010        |  |
| 26+4C7 01 0                             | CFS 636 0006                            | 1013.9.2hA40.06    | SHOCK Desp  | 120000    | 11 New          | 73081 Ct - 39-44   | 0724200                        | 1100000          |  |
| 99-1-607-02                             | CF3 686 2006                            | 1017 S.2NMF8-02    |   | 1200mm    | 11 Please       | 73398.00-100-44r1  | 9724200                        | 11000000         |  |
| 1012100                                 | P.CM 4646 9009                          | ASTRE-1986-327     | Wind Zone 3, Massle<br>Lene C. Spice<br>Passage 4, 50     | 126em     | - 25km          | 75084 OL-134-44    | 3024300                        | 11000000         |  |
| 2019192                                 | FOR 4646 0001                           | ASTM E-1986-06 /   | Wind Zone 2. Missle<br>Laws C. Cycle<br>Pressure +1/10    | 126em     | 258mm           | 19084.01-128-44    | 3834333                        | 1100000          |  |
| 20 M 422 M 50                           | QFD 4646 2014 ( QFD 4946 3009           | 1013.5 JAMES 422   | SMG-CM0 100   | 1252mm.   | 222mm           | 59645 00:122-44:2  | 00000000                       | 1025250          |  |
| 28-142401                               | QF3 4846 2075                           | 101A 3.2NAF 8.02   | SHQ-C90 115   | 1232mm    | -segaz.         | 55643 CD:122-64-5  | 00000000                       | 1030000          |  |
| 1000001100                              | TSP/TSP(TT7:TTR 022 0000 (Acryo, Jame)  | SPESSMUSSES        | SPCB 23   | 568 Amon  | SQI Brim        | 5000: CD-122-44-CI | 00000000                       | 12014/2008       |  |
| 2010201-05                              | NORWICE 4645 DOTA / VOMANCE 4545 0009   | 5017.8 SA440.05    | SAGCR   | 1200mm    | -Silena         | 5757 01-12:44      | 11,92/2025                     | 12/22/2008       |  |
| 284482801 V                             | COMMOS REES DOZ                         | 3017.S.2A442.05    | 840.046   | 1250 mm   | 286 mm          | 57787.01-122-44    | 1182/2005                      | 12/22/2009       |  |
| CONTRACTOR OF                           | CONTROL 4646 DOTA / VOLANCE 4846 DOSE   | SCHAS DNUTB-02     | 5005-050 70   | 1296.4 mg | -286.4 mg       | \$7792.C3-122-44:1 | 11.15.2005                     | 12/22/2008       |  |
| SH42800                                 | ACCRETIVES 4646 COTS                    | 181.1 S.2NAFS 02   | SIG-CS0 60  | 1200 4 mm | 128.4 mm        | ST787 C3-122-44-7  | 11717000                       | 12/22/2009       |  |
| 20H-62B-00                              | VST/SE 606 0074 / VS.VSE 606 3008       | 1913.S.2NJF.S.02   | 840,098.58  | 112767    | 1175mg          | 40731 CD-122-44/2  | 11,75/2006                     | 000121000        |  |
| 25 H-52201                              | VSW00 300 3074 / VSV56 308 300          | 1013 S 2NUFS-02    | 500-006.50  | 776590    | : 28form        | 49791 CD-122-44/2  | 11/15/2008                     | 00/13/2008       |  |
| 20 629 1482                             | VSV3E 986 X014 / VSV5E 806 X008         | 1012.8.28488.62    | 8900-098-89   | 17.50     | 1175mm          | 19839.CD-109-44-1  | 00001000                       | 110201-50        |  |
| 0.0000000000000000000000000000000000000 | VSVSE 386 JOY - VSVSE 308 JOS           | 1043.5.2NJF8-02    | SHC-C150 85   | 775mm     | Hardman         | 75858 CD-109-44-1  | 0001100                        | 06/18/2011       |  |
| 20000100                                | VCH / VCZ 4646 0003 E9 1 0005           | ASTM E-1986-32     | Wind Zone 3. Massie<br>Lone C. Cycle<br>Plantage +50.50   | ž         | á               | ST\$4.01-122-44    | 1206/3025                      | 01.02.62/00      |  |
| 284-622.00                              | TOR/TER 022 0000 (Acres 20me)           | 2012 S NAF S 422   |   | - (Allem  | Men.            | 51544 C1-122-44-1  | 00001000                       | 016:203          |  |
|   | TG#/TGR 822 0000 Bleryle: Dorne)        | \$6,000 ALC 87,000 | SP-CIN; Desgr<br>Pressure -200                            | 569mm     | 120mm           | 61544.05-122-44    | 2001000                        | 8107.018         |  |
| 304463300                               | TAK/TARY B14 1000 (Folycarconne Cone)   | ASTM E-1884.02     | Wind Zone 3, Massle<br>Levis C. Spen<br>Pressure + 125-50 | E         | THE ME          | 81567 C1-125-44    | 03819006                       | 02442018         |  |
| 2010091-92                              | TAISTINE SEA 1000, (Tolycamorane Done)  | 1017.5.296/65/02   | Sections  | Securi    | 356nm           | 61687 ID-122-447   | CSB10905 02640018              | 02/04/2018       |  |
| 1275 06.284E                            | 13-39 04/28/07 Wednesday, May 13, 3009  |                    |   |           |                 | VELCKAN            | VELLY AMERICA INC. Page 1-6/16 | Page / age       |  |

| Menufacture 426<br>VEXX AMERICA INC. | 428<br>A.Inc.                   | **                                | H.   | <b>√</b> E |                 |                   |            |                  |
|--------------------------------------|---------------------------------|-----------------------------------|--|------------|-----------------|-------------------|------------|------------------|
| PO 80X 5001                          |                                 | >                                 |  |            | Overriber Trees | 7.00              |            |                  |
| CHEENWOOD                            | CHEENWOOD SC 29646-5001         | 100                               | Company of Charles                                     |            |                 |                   |            |                  |
| 7EL (86) 941459                      | 4634                            |                                   |  | 1          | Base Model: Att | Medi: Att         |            |                  |
| Product Va                           | Product Name                    | Standard                          | Rating   | Wife       | High            | Test Report #     | CertBate   | Certbure Explore |
| 426-11-205.00                        | VOMVCE 2245 at to               | 1011152/44/0-05                   | SKG-075 Design<br>Designs 1300                         | Skhen      | 1282mm          | 78193 83-100-44   | COTAGOOR   | 11/202011        |
| 426-11-000,01                        | VCM/VCE 2245 ±010               | msicus such                       | Sec-C150 1DO   | E STATE    | muzz.           | 78163 84-109-44   | C0162000   | 11/282/11        |
| 425 H-595.00                         | VSVSE 605 x035                  | 1018 325440-05                    | SIG-CDC Design<br>Pressure 1185                        | 1,30-11    | 1978m           | 76668 94 109 441  | 65107008   | 11/12/2011       |
| 426 H 696.01                         | VEVYSE 600 x005                 | ASTM E-1986-12:                   | Wing Zone 3, Mose<br>Lead C. Cycli<br>Pressure et 40   | 1:30-1     | 1987cm          | 7660 12:106-44:1  | 0000000    | 1142001          |
| 425-H-666-00                         | VS/VSE 600 A008                 | 101153745542                      | Sec-C150 So  | 11.30mm    | 1987zm          | 79959.06-109-44-1 | 05/10/2008 | 11/12/2011       |
| 426 H-557.00                         | VS/VSE 308 4005                 | 1014 8 27440505                   | SKG-CAE: Design<br>Pressure #180                       | Materia    | 1367 m          | 7350 St. 105-441  | 02/10/2008 | THE STORY        |
| 420 H 460. U                         | VSVVIX INF ADS                  | ASTM E-1806/02:<br>ASTM E-1886-02 | Nend Zone 3, Medde<br>Level C. Cyclin<br>France at All | 781mm      | 1380mm          | 70000-30-100-4441 | 00/20/200  | 111142011        |
| 420-14-667-00                        | VSVSE 309 x005                  | 1011 S 2NAFS 02                   | SIG-C150 RO  | 781mm      | er ign          | 1000035-106-44-1  | 05 102028  | 11122011         |
| 426-11-023-00                        | VSAVE BBB JOIN                  | 1011527440-05                     | SKC-COR, Design<br>Page, en v. CO                      | 11 (Om 9   | 1.72mm          | 7725,34109-44rl   | 0711200    | 1000001          |
| 426-H-628.0:                         | VSVSE 606 sold                  | 1074 S.2NGS-02                    | 000000000000000000000000000000000000000                | 11 Xbres.  | 11.72mm         | 77306.30-109-4401 | 07112208   | 1009001          |
| 435-H-556-00                         | VSVSE 308 JOHC                  | 10115.37440-05                    | Stock RCS Design                                       | 77.gr.m    | Tables          | 7708 34-19944d    | 0711208    | 1009001          |
| 426-H-538.00                         | VSVSE SIGNOIS                   | TO "TE ENGINEE OF                 | SKG-010000   | 772rm      | 133600          | 77000.00-109-64-0 | 07112200   | 100000011        |
| 426-H-060,00                         | VENYER 136 abio                 | 10115.37440.05                    | SKG-C45; Design<br>Pressure #250                       | 985mm      | 1197mm          | 7708.34.10944rt   | 8021128    | 1006001          |
| 426-H-660.31                         | VSWSE -26 KOLS                  | 1075 8 2 NAUS 02                  | 200-0120-20  | March      | 11 green        | 77098.39.109-44.0 | 07-11/2008 | 1000001          |
| 435-14-081-00                        | VSVSE BOS JOH / VENEZ BOS JOH   | 10-1527440-05                     | SKD-C40, Design<br>Press, eer 60                       | 12 (fear)  | 1175em          | 753501-100442     | 07-11/200  | 100mm            |
| 425 11450 00                         | V6V5E 308 ±074 / V5V5E 308 ±008 | 1014 S 27440-05                   | SKO-CAR Desgr<br>Passure 270                           | 776em      | 1410mm          | 788031-106-442    | 0741208    | 0618201          |
| 4841-500-30                          | FS 606 x274 - FS 606 x806       | 10:18.27AH0:06                    | SKG-CSE Desgr<br>Press, centilis                       | 11Shrm     | 1194m7          | 75110/02/10944    | 05/24/202  | 1000000          |
| 426-H-663.01                         | FS 606 x094 ( PS 608 x608       | 1014 S.2NAS S.02                  | S00-C345.70  | TISServe.  | 11 Mener        | 75110,39-100-44   | 0000000    | 08/38/2011       |
| 425-1-004.00                         | FS 308 x074 × FS 308 x808       | 101123744000                      | SKG-CTE Design<br>Presented 170                        | Tak an     | 141000          | 75110 08-109-44   | 9007099    | 110000000        |
| 426-14-084-01                        | FS 328 x214 / FS 328 x08        | 1021 S.2NAPS-CG SKG-0150 95       | 800.0.008  | TWO III    | Hiller          | 15110.03-109-44   | 00042000   | 1020200          |
|                                      |                                 |                                   |  |            |                 |                   |            |                  |

| Manufacturer 426 VELUX AMERICA INC. PO DOX 200: GRESHITOOL, 3C 2004 TEL. (89) 911-4628 | 121. IRRA SALARES AND SALARES | ₹                 | WDMA  |  | Operator Type:<br>Base Model: All. | Spec.<br>lef: All. |                      |        |
|--|---|-------------------|---|--|------------------------------------|--------------------|----------------------|--------|
| Product No.  | Product No. Produce Name  | Standard          | Rating  | 72.0   | High                               | Text Report 8      | Certbate Expbase     | ExpDs  |
| 00 584 495 00  | 484-466 O TO Acres Cat Mont Part 20um   | 50103A4000        | Coas CNI-1013) Sar Fessel SSC:n (27) TO Consident As  Inferioric Chine Level-A3 Nine Perentito Presente T309  | media<br>phones  |                                    | 83842 83 109-441   | CG12/2009 12/01/2012 | 150402 |
| CS-1465 01   | Liberidiis 01 TOF Angles Cart Mount Steam Diffused  | 80112 2010 2010 S | Course CW-60150;<br>Sur-Testad SSPs.m<br>(277-100) Canadam<br>An<br>Interactional<br>Facetion For<br>Facetion Facetion For<br>Facetion Facetion<br>Facetion Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>Facetion<br>F | 200mm<br>dameler<br>dameler  |                                    | 85842 51-100-441   | C\$126000 12876012   | 2000   |
| 28 H 685 II  | 426 H 666 CZ TCH Asyle Cuts Mout Reard Officers   | 1018 3 20440 35   | SP 10: Caradan As<br>Influence/Colleges<br>Level A3 Water<br>Personalis<br>Internation 100 Pages<br>Pressure 100 Pages<br>Pressure 100 Pages  | Marves   |                                    | 50047 ID 100 444-1 | G1125000 12012012    | 8.00   |
| <b>CBH 85</b> 03   | TOR Applie Curb Mere (Repaire Diffuent  | sna 3 20440-05    | SP-10 Canadan Ar<br>Inflamen Editador<br>Lord - A2, Waler<br>Prevention<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcriptor<br>Transcr  | Service of the servic |                                    | 83042.ID-109-sen   | CG122003 120'2012    | 8<br>8 |
| 425H-855.04  | TOR Acrylic Curb Mount (Roand Diffuser)   | 101652WF5@        | 55-150  | Second   |                                    | 60842 31:109-84rt  | 65122269 12013012    | 120170 |
| 425 H-005.05   | TOR Acrylo Cuth Mount (Squam Diffuser)  | 1011527WF5-02     | 25-120  | Salarah<br>Saraha  |                                    | 83942,31-105-4411  | 03-12/2009           | 201001 |

| Operator Type:<br>Base Model: 1-1.  | High Test Report 8       |
|---|--------------------------|
| W.  | Rathey Wide              |
| MOM   | Surfaré Ru               |
| Manufacturer 428<br>Vita Liv Antisect Inc.<br>Po 10x (0x)<br>Steamwood 5x 20x02001<br>TEL (30x) 10x1 4509 | Product No. Product Name |

| WINMA HEREBY CERTIFIES that the abreack Company (Corrector), at its plants a is furnesed to use the WIDMA Resistency Halfmark on product lates the bary been                        | By: 166 1165   |
|---|--|
| manufactured in conformance with the gamdards. It is further certified that the plant(s). Lections and only and recovers of Licensey have been become the WDMA, and are             | John McFee<br>Conflorion Mon                           |
| palace to regular following imperiors and tests, and that Licenses is qualified to comply with the safe proceedibility of the Licenses and WDMA makes to comfiguration with respect | Program Specials<br>Window and Date Manufactural Assoc |
| to any such product either regarding conformance with the standard(s) or otherwise.   | Disage, E. 2001<br>Things, E. 2001                     |
|   |  |
| the transference distances and an area  |  |

A.004

2 Skylight CCL Report

|                                    | Halling to continue of control manter and theritor (cont) | 1000                  | Comparation  | 1                |                 | (200)             |                   |            |
|------------------------------------|---|-----------------------|--|------------------|-----------------|-------------------|-------------------|------------|
| Manufacturer 426<br>VBLICAMSTICANG | er 426<br>Sainti  | ;                     | 4  | ابر              |                 |                   |                   |            |
| PO BOX 9801                        | NO BOX FBO1   | \$                    | WUMP!  |                  | Operator Types  | 36                |                   |            |
| Z2r-145 (496) 73.1                 |   | 40.00                 | 47-55 - 5 - 50 - 5 - 50 - 50 - 50 - 50 -             |                  | Bate Model: ALL | T 47              |                   |            |
| Predact No.                        | Product Name  | Stendard              | Rating   | 27.8             | НВА             | Test Report #     | Certifian Expluse | Exp Dute   |
| 426-1-54:00                        | CA Dome   | 1010.3.27440.06       | SP-C30, Negative<br>Desire Procurential              | 121 Smm          | 24381241        | 800% 30-12-44     | 09123006          | 04/2/20210 |
| 4284464200                         | CAP Dome Sayage   | 1014.3 27565-02       | S4P-C80 90   | 121              | 121274          | 60014.01-122-4401 | 01062007          | 6020200    |
| 426-1-643-00                       | CW Dame   | SP10.523440-20        | 200-000  | 121 January      | 1219mm          | 60074, 20-122-44  | 92/05/2005        | 28202006   |
| 425-H-544 CC                       | CVA/CVE NO 0274 / DVAVCVE 656 0008                        | 3040978 EM030         | SKG-C40 Design<br>President all 65                   | 1181mm           | 1250-40         | 68322.7n-115-44r1 | 01092007          | 127.52010  |
| 428+484401                         | OVACAVE NO COM / QVANCAVE 056 CCCS                        | 1010.827465-02        | SHO-C145.00  | mail in          | 1120.00         | 68322.30-109-4401 | 01/15/2007        | 1274.23210 |
| 426 1-548.00                       | QNS 000 0074 / GPS 606 0000                               | \$514.5.27440.0E      | SYS-C36 Design<br>Pressure 1155                      | : Maner          | 112 mm          | 68323.01.105.44   | 1000001410        | 1274/2010  |
| 425-1-545-01                       | OFS 636 2074 / QFS 666 0008                               | 551A.S.2PUSS-02       | 5000-000   | 1 Shimm          | 11E-mm          | 68203.30.100.44   | 0.016/2007        | 1274/201C  |
| × 28 - 686 ×                       | VSVSE 006 0808  | ASTNE-1996-00 /       | Word Zone 3 Moute<br>Level C, Cycle<br>Pressure 4:40 | TS Communication | ř.              | 103e              | 10000010          | CASSAGNIC  |
| 425-14-547-00                      | FCM 4545 3011   | 1510.3.27440-05       | Sections Design                                      | 1285mm           | 1286mm          | 70090 21-115-44   | 11672301          | 38-2201    |
| 426 H 647.01                       | FCM 23-45 2010  | 1217.9.2/440.06       | SHG-C192 Design<br>Pressure = 238                    | 673cm            | 1,000mm         | 76090, Ec. 109-44 | 110772007         | 1102200    |
| 425H84732                          | 2024 6845 0010  | ICIT-S 2 NVFS-IZ      | SHG-C160 RG  | 1808             | 1225mm          | 78050 to 100-6481 | 11472307          | 2012/2011  |
| 420,14847.03                       | JCW 2245 2010   | 1012.5.274.675.02     | 59(3-0150 150  | 873cm            | 130kmm          | MODE ID 109-44-1  | 1107,5007         | 11022720   |
| 426-14645.00                       | TOM 4667 SC74   | 1013.8.20445246       | SHG-CSC Design<br>Pressure 1156                      |                  | - Carlona       | 76965 U-109-641   | 8371.7008         | 11/2/2011  |
| 426-H-642-20                       | PC# 4697 DC74   | 1017-9-29-WFS-02      | SHG-C150 120   | - 1982.          | 1528mm          | 70000 ID-109-64:1 | 04053003          | 117,22011  |
| 42644601.00                        | 7% 500 x010   | 101752046035          | SHS-CSC, Design<br>Preparer = 120                    | 150mm            | 1 Skimm         | 77357.01159-64    | 10/201/00         | 10752511   |
| 42544451.01                        | FS 805 x010   | SPERONGENICS          | BIG C120 BS  | 1166m~           | 1194mm          | 77357.00-109-44   | 05/18/2008        | 107,52011  |
| 426 H 652.30                       | FS 35% w010   | 12155 20465 06        | SIGC72 Cestgs<br>Preseur = 160                       | aggran<br>aggran | mw.             | 77357 0 - 100-44  | 02162008          | 10252-01   |
| 426-14-652-01                      | F5 305 x010   | 101118 BNMESC2        | 849-5160 120   | 900mm            | 741 June        | ## 601-00 F2CTT   | 2002/21/20        | 1075201    |
| 426.14663.00                       | PS 105 a010   | SPCHAG SAICH          | Present 120  | 666rain          | 1194mm          | 77357,01-109-44   | 60197006          | 1075201    |
| 42644653.21                        | FS 105 x010   | SPERWARE COL          | \$10,015,000   | e de la comp     | :194mm          | 77357.02.109.44   | 0201875038        | 1075201    |
| 426-14554.30                       | VIDAVICE 4848 x010  | 50482544048           | SKS-CAC Seagn  | 1292m            | 280men          | 35 ECT 101-44     | 80022103          | 11025211   |
|                                    | The same of the same of                                   | CONTRACTOR OF CHAPTER | 0000 0000  | -                | -               | 77 001 70 170 170 | COLUMN STREET     | *********  |

| SAMPLE ID:                         | The following sed material identified as Tile Tech Predestal Bottom cop, nominal 3 mm thick.   |
|------------------------------------|--|
| DATE OF RECEIPT:                   | DATE OF RECEIPT: Enland into SGS USTC sample bracking system on September 2, 2009.   |
| TESTING PERSOD: September 4, 2008. | September 4, 2008.   |
| AUTHORIZATION:                     | Testing authorized by Ronale Taisbrita.  |
| THST REQUESTED:                    | TIST REQUESTED: ASTA Designation DOSS OF Standard Trait Method for Rate of Burning analytic Extent<br>and Time of Burning of Practice in a Herizonta Procision.    |
| TEST RESULTS:                      | See page 2.  |
| CLASSIFICATION:                    | The subertied sample is designated HB in accordance with page, X1.2.2, The subertied sample is classified CCI in accordance with UBC Standard 26-7; SEC. 26.2/302. |

| SGS U.S. Testing Company Inc. | 278.4      | Greg Banasky Supervisor Fire Technology | The content of the co |
|-------------------------------|------------|---|--|
| lement by                     | Buin Cally | Brian Ottoga<br>Test Technician         | Constant is well the Constant page to Constant of the Constant |

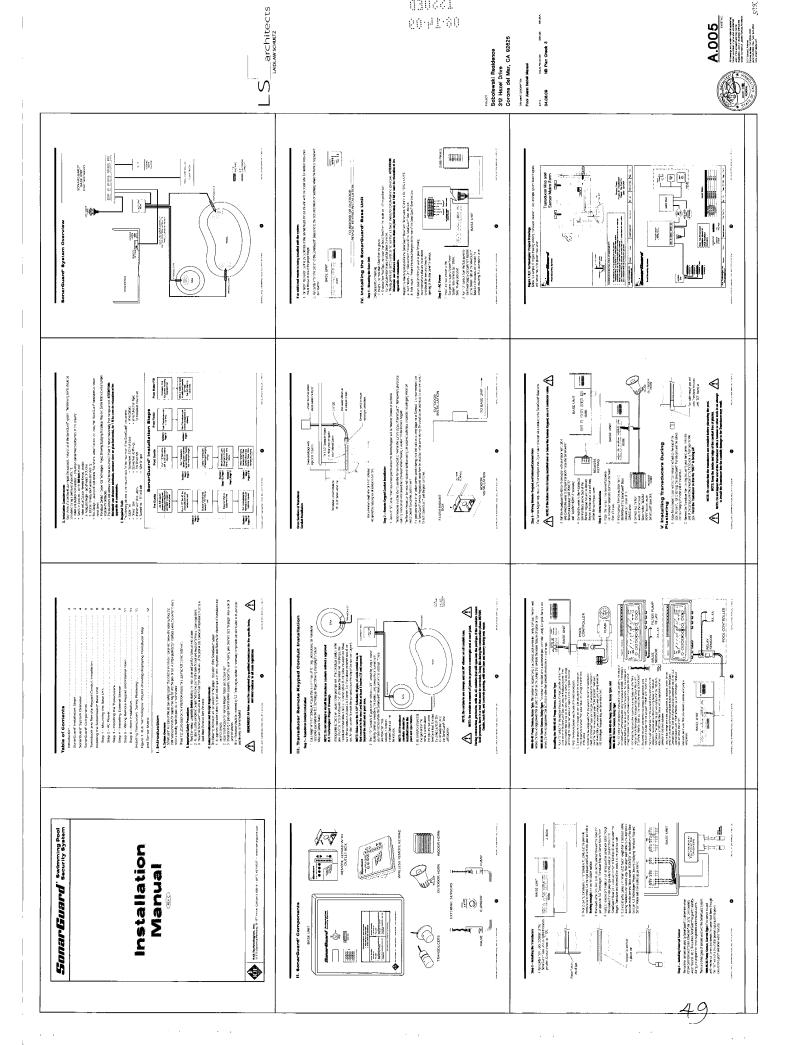
LS architects

## Ses

|   |  | Report No.: 914-915212   |
|---|--|--|
| CLUENT: TIL                                   | CLIENT: TILE TECH PAYERS   | Page: 2 of 2   |
| TEST RESULTS:                                 | Number of Specimens Tested.  | 9  |
|   | Average Specimen Phidoess.   | 3 mm morrings  |
| OBSERVATIONS:                                 | None spearments burned to the 25 in<br>removal of the best flarms for an and   | None spoomens burned to the 25 mm mark. The specimens continued to burn after removal of the lost flame for an average of 2 excents.   |
| EVALUATION OF TI                              | EVALUATION OF TEST FROM APPENDIX X1.   |  |
| X12   | Category Designation - The behavior<br>Horizontal Burning) 8,  | K12. Category Despirator. The between of the operations can be classified H8 (H8 $\circ$ Horizontal Burning) if  |
|   | X1.2.1 There is no visible signs of  | XI.2.1 There is no visible signs of combustion after the ignition searce is removed, or  |
|   | X1,2.2 The flame front does not pass the 25 mm reference mark, or  | as the 25 mm reference mark, or  |
|   | X1.2.3 The fame fract passes the 2<br>100 mm reference mark, or  | $X1.23$ The fame fract spaces the 25 mm reference mark but does not essen the $100\mathrm{rm}$ measures mark, or   |
|   | X1.2.4 The flame front resched the<br>does not exceed 40 months<br>13 mm or 75 months for st   | X1, 24 The farme front reaches the 100 mm reference mask and the lever burning rate<br>does not exceed 40 minring for experience having a trickness beaven 3 and<br>13 mm or 75 minring for specimens having a thickness less than 5 mm. |
| CLASSIFICATION R                              | CLASSIFICATION REQUIREMENTS PER UBC STANDARD 26-7, SEC. 26.706.8   | ARD 26-7, SEC. 28.796.5  |
| OC1: Plastic material<br>(1.5mm) Suckness (c  | OCI: Pladic natedals which have a furning exist of 1 leds (25mm) (15mm) distributes (or in the Bickness intended for use) by this took   | CCI: Plastic nationals which have a turning exist of 1 lines (25mm) or less when basted in normal 1000 -inch<br>(1.5mm) shukress (or in the Bickings intended for use) by this xet   |
| CC2: Plastic material<br>nominal 6.080-enth ( | C.C.2. Postbo motodate which have a burning rate of 2.5 inches por minufe (Berminia) against at (0.05) and (1.5 min) thickness (or in the thickness retended for use) by this test | C.C.2. Posabo materials which have a burning rate of 2.5 inches per minute (Edernativa) or less when belond in<br>mominal (s.OS)-spit (1.5mm) informers (or in the thickness interched for use) by this bid.                             |
|   | End of Report  | , uode   |

| Mg + 306 | Book (845) 300(03)<br>(as (845) 17-001)  |   | peri   |                | Entrange Salak Jackson and Control  |  | for the company day includes and the following care over professed with insighten sent in the other monant despites a company over calcular greate benefited when the big instruction of the company over calcular greate benefited when the big instruction of the company of the c |  | Ŀ        | 1 2 Y | Same TI Sent Period   |  | Common on the control of the control   |   |
|----------|--|---|--|----------------|---|--|--|--|----------|-------|---|--|--|---|
|          |  |   | den type At, model Seran   |                | about a militar of the fore.  | 128-03   | and were professed with a<br>agreement level and alone to  | z Preject No. X975'' 3   | Browetty |       | TIZ SHARE   | entered and programme Complete (Albert on Malestan | A COLUMN TO A COLU   | A Land, Suite Chapter Note, CANNOR  |
|          | 1975 8761  | 200797-038<br>30053217200039  | Probation and integral yet, ped place (specific proded Sensycen) |                | The surrous also and opening secretary for enhance and true of the fron infrinted subservational to be maximized. | Sundard Specification for Post Alarms (ASTH PULLSCO) | of all relation and the Oldoning case were preferred with man<br>con-<br>CLM relevon provides was calleding named barel and allows the<br>disculated, and<br>Students with the   | The letter complete for any solventh antiquest by our frequentials, NOTATION |          |       | agent Nagerd  | Authorities des Organismes                         | The region on the colored and it haven C by and I becomed premain the dispersacy consists and with C become<br>the colored and the colored and t | Interest Traces Service NA De-<br>Prior La Pay Zand, Suine Chapter Nythe, CA 1987 |
|          | Mr Brack C Barners<br>MR Technologies<br>1977 Barners Paterna, Scarl Scott<br>Scott, CA 975 3. | A consideration to the second | Salgeon Trade  | Cog W. Dilenca | ha intercon admin   | andad Speciforing                                    | Action organishes  | Tak beter sompleten de   | ·        |       | To Comp<br>Registering Tree Coulde<br>Marrier Th. Senson Lagran Pages |  |  |   |

| s-compare |  |
|-----------|--|
| î         |  |

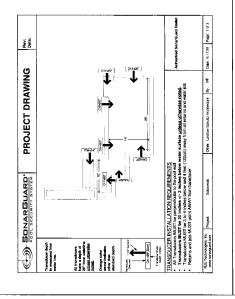


1550Ep 08:14:09

A.005

As harming the event house a second harming the event house a second harming the event house where even the stones only and a second harming the event harming the event of the event of the event harming the event of the event of the event harming the event of the event of the event of the event of the harming the event of the event of the event of the event of the harming the event of the harming the event of the harming the event of the

1350E) 08:14:09



LS architects

| LIST Rev:      | Notes              | > All transducer runs to be without | spike     | <ul> <li>Junction box locations to be</li> </ul> | determined in the field. | <ul> <li>See SonarGuard installation manual</li> </ul> | for detailed instructions. |            |             |                 | By: NF Date: 617.09 Page: 2 of 3              |
|----------------|--------------------|-------------------------------------|-----------|--|--------------------------|--|----------------------------|------------|-------------|-----------------|---|
| IN             | L                  | ř                                   | _         | 0  | 80                       | -  | -                          | -          | ٥           | o.              | Hec.re  |
| EQUIPMENT LIST | REQUIRED EQUIPMENT | Description                         | Base Unit | Alarm Salay                                      | Transdepers              | Remote Keypad  | Outdoor Hom                | mate Hom   | Refet Valve | Expansion Board | Other, Leickew Schutz Architectus             |
| _              | REG                | Part No.                            | 1000-01DC | 1008-65-69                                       | 1009-04L                 | 1009-02  | 1000-0001                  | 1005-05-02 | 9800168     | 1000-05-10      | 8   |
| SONARGUARD     |                    |                                     |           |  |                          |  |                            |            |             |                 | Sobolevsk                                     |
| NAF            |                    |                                     |           |  |                          |  |                            |            |             |                 | Project:                                      |
|                |                    |                                     |           |  |                          |  |                            |            |             |                 | R.IE Technologies, Inc.<br>www.tonasguard.com |

|                          |   |  |   |  |  |   |   | - 1  |  |   |  |  |  | П                       |
|--------------------------|---|--|---|--|--|---|---|--|--|---|--|--|--|-------------------------|
| Rev:<br>Date:            |   | and a compromised to white plants.  The compromised provides the control of the c | Morthour we prove actebolishing indicary the broade and double of manuskaps and reaches and sealers. The proves contract in profess the state of 10 stronton of 100 focus and transfer as the following of 100 poor                 |  | seciests.  | Commetter will becale by  | tinctor.  |  |  | F208-02.  |  | cor neched to a security or  |  | Other comp              |
| CATIONS                  |   | Cylides returns bench to   | and by the manufacture.   | West, C).  | al conductor to provide the  | en istodose sue Gerer   | oveled by the electrical co   |  |  | STU Pso Alam Stancard   |  | operach watering his be  |  |                         |
| NOTES AND SPECIFICATIONS |   | Les edding morfals y   | on the project drawing pro-   | n (Transducer cable stank<br>provided by nanufactura.  | эдээн эд у дагаас,   | randi edito 22-1 dustr  | in the supplication is to be of   | y system.  |  | was in accordance with A  | was and are studies  | st, herrs, lengasdis) and dr   |  |                         |
| NOTES AN                 |   | of it. the following water list  | sector at notice section  | uce cable to commercial spinor   | ng dedicated circuit. It as the  | indele and riskli speliers<br>Literare.   | y and a deficient phone five  | destroites of pod securi   |  | good, son, or other body or   | this coverage of any cod   | THE SELECTION  | Now widow force  |                         |
| ARD.                     |   | sy the occupies of that has emis-<br>ral state or  | Maryabar wij provie ackteled dening tributeg de kostion and dopf of re tarobores and rousind surfames.<br>The general confluids in potem the rough-mid 150 strokes of PGC pour a machineratore boston as indicators for the highest | Consistence is the passing the control of consistency between the consistency of the cons | General correction comments and comment deposing the constitute on a Serry described in the respectable of the energial comments in seasible these electricities are reposited of the energial comments in seasible these electricities. | General compacts of count to anticy high seaders, as moralish for marketing and tigal spokes part 128 page spokes will be calculated for the contact will be an increase the appropriate for the seaders and the appropriate for the contact of the seaders and the appropriate for the contact of | il goong autodale is used, a happain convector from command stations the autobale and a deficial prove fou in the autodaler is to be provided by the electrical certification | Man Jettan in Authorized Sanar Cauld Desir will perform samp, calendary, hasing and coefficient of pool security system. |  | The Post Security Spann is designed to provide desection of a tribid labels into a stairming bod , son, or other body is ware'n accordance with AST to Post Asma Standard FA206-02. | Pod Gestrity System Jakes schwisser Hobridogy fiell provides Immediae detector with hall coverage of any cool suck and of of the | Spar contact is common material extension and bather, better, remodern with safe for earnit, form, legarists and discoverable extension as a second to a second material extension of the common of th | And the second s                   |                         |
| SONARGUARD               | dotos<br>neing Package  | comes or comparator accessors that the set if a partie is compared to the comp | eddaerg rdosegdeko  | Strig Trust at cordus /  | nerd statem(s). Each conver  | Sandoritos sanders per<br>De appropriatos sandori   | ST UPIN CONNECTOR PERSON  | POLAND Dools and perform   | peoficialens<br>Pur Saudo Souten                                 | grad to provide descript of   | on saw lear day, full pr   | System consists of a command statents, with electrosis as basely given is activated system. Activates is collected.  | Anna Sona<br>Control and Control and Control and Control<br>Control and Public Sonator and Control<br>Control and Public Sonator and Control<br>Control and Control and Control and Control and<br>Control and Control and C | and a                   |
|                          | General Pool Security Notes<br>For Swimming Pool Dowing Package | of complete and co | father will prince acids  | eral commence is to cut pud<br>educer cable to be puted by   | est contractor rounts com-   | of and cheral species is  | cora autodale le used, a  | father or A.P. wined Son   | Pool Security System Specifications Basic of Basics Scott Scotts | Post Security System is des   | Security System Johans soi   | er contain d'a commanding (nommanding)   | Specification of the formal control co                   | R./E Technologies, Inc. |

1 Pool Alarm Installation Diagram

312 HAZEL DRIVE. CORONA DEL MARI, CALIFORNIA

SOBULEWSKI RESIDENCE

2000 A CONTROL OF CONT

Vandulland Energy Consultants

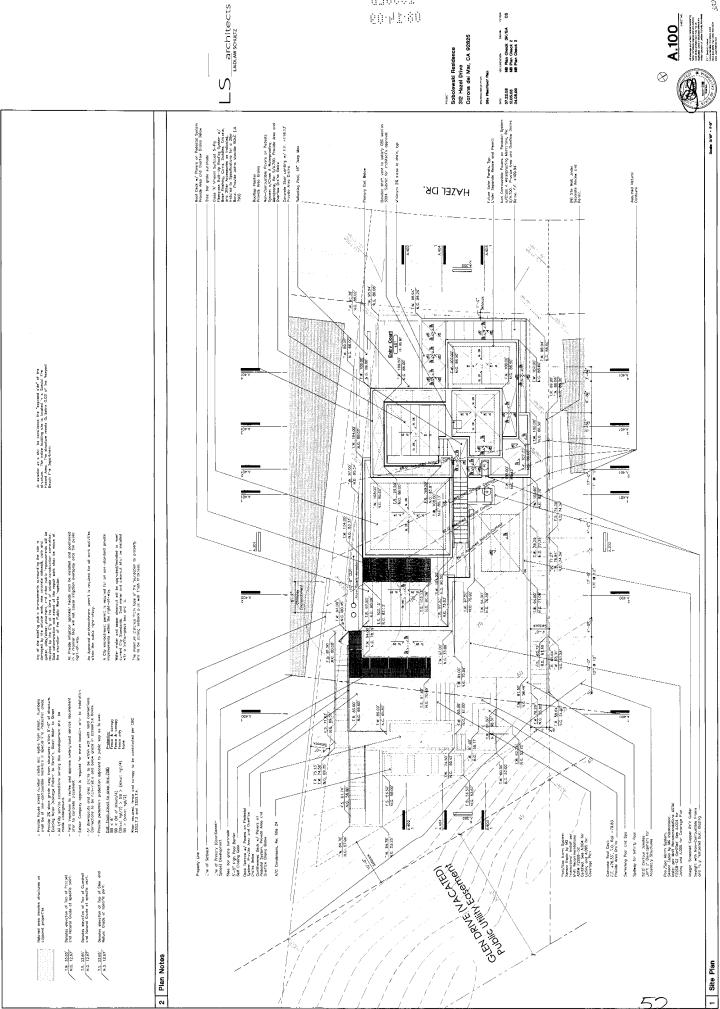
"Looking to The Funers"

"Looking to The Funers"

"Coloring to The Funers (1987) (ASSET)

"Colo

| OF-1R | The control of the co |
|-------|--|
| MF-1R | The control of the co |
| WS-5R | PROTEIN AND LANGE AND LANG |

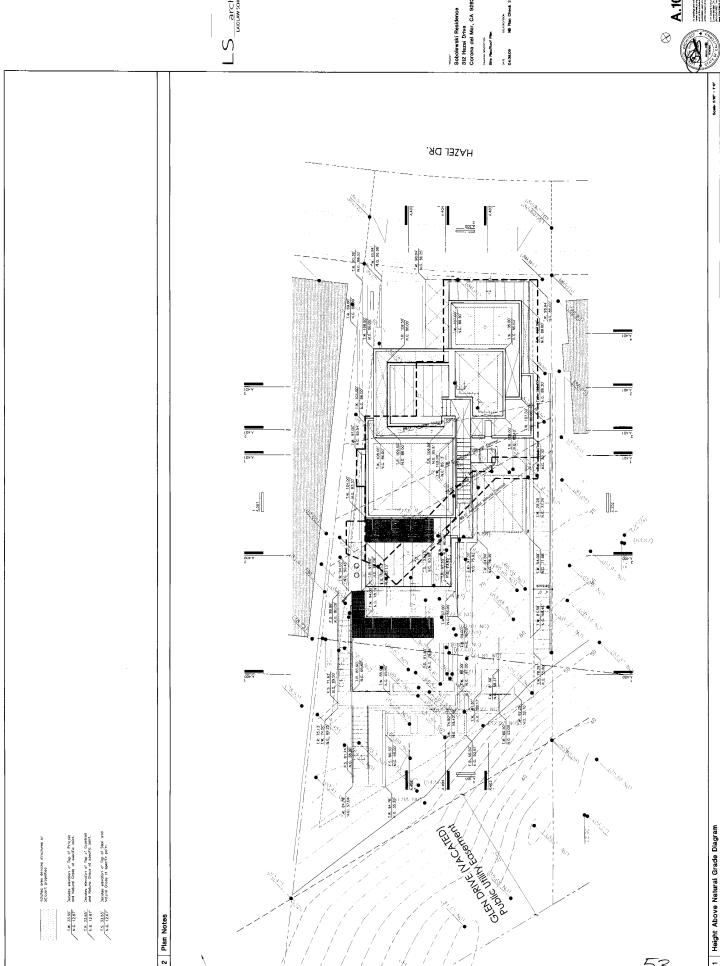


130001 08:14:09

\$ 8

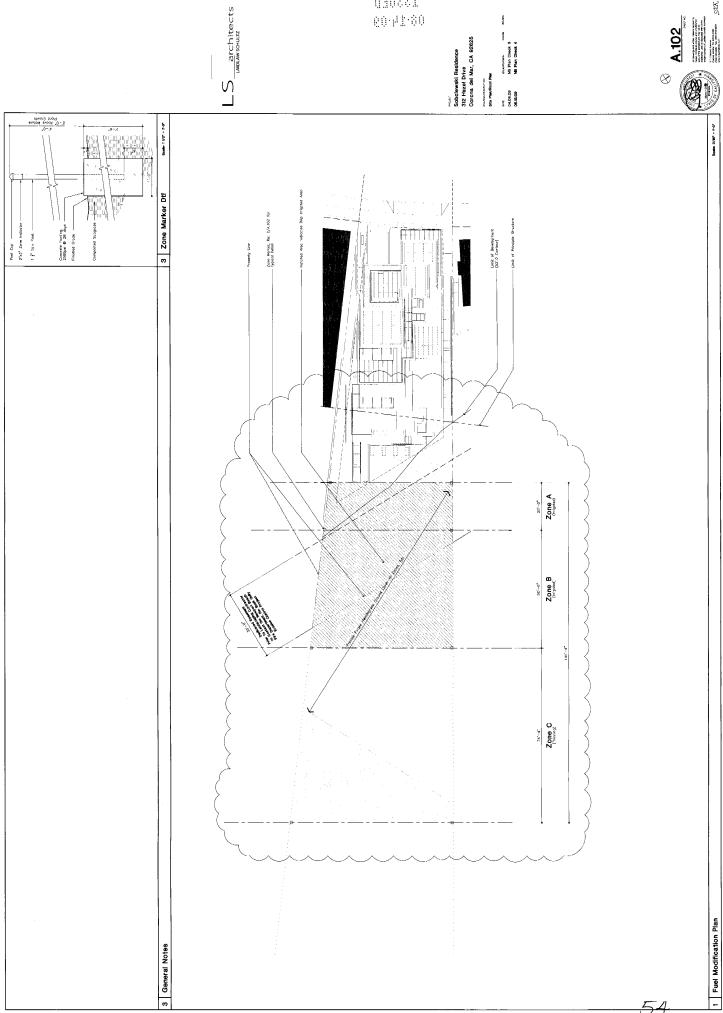
A.100

Ä All operations and manual account for the control of the control o

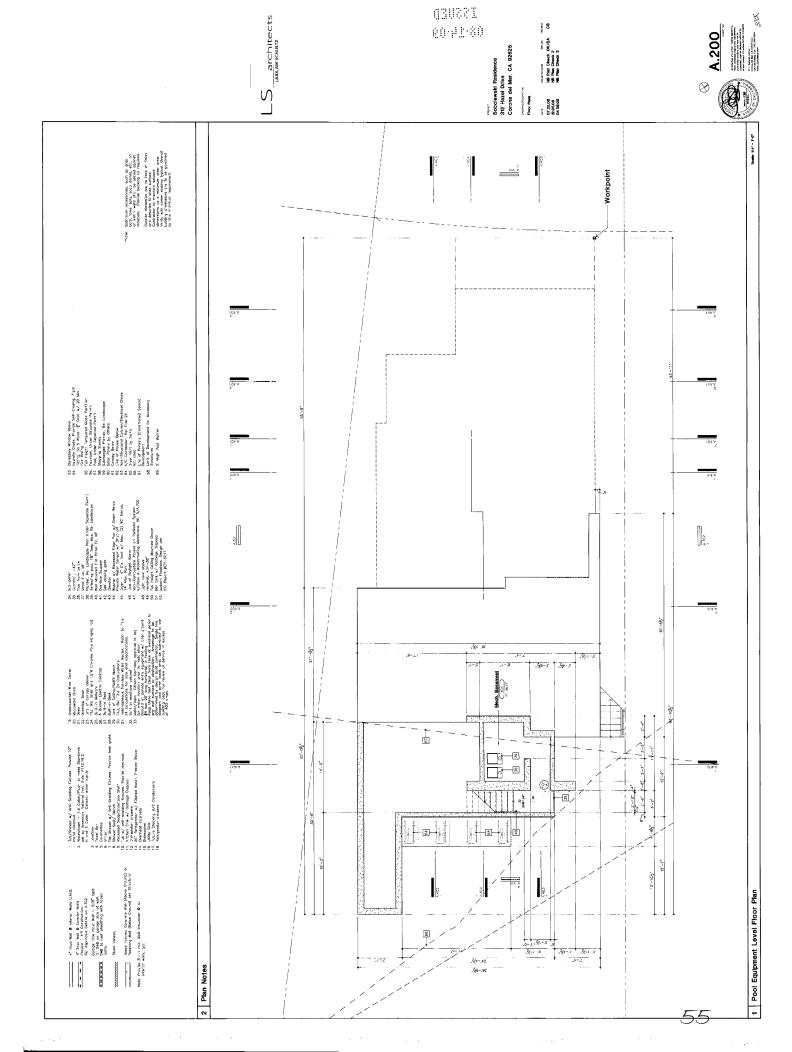


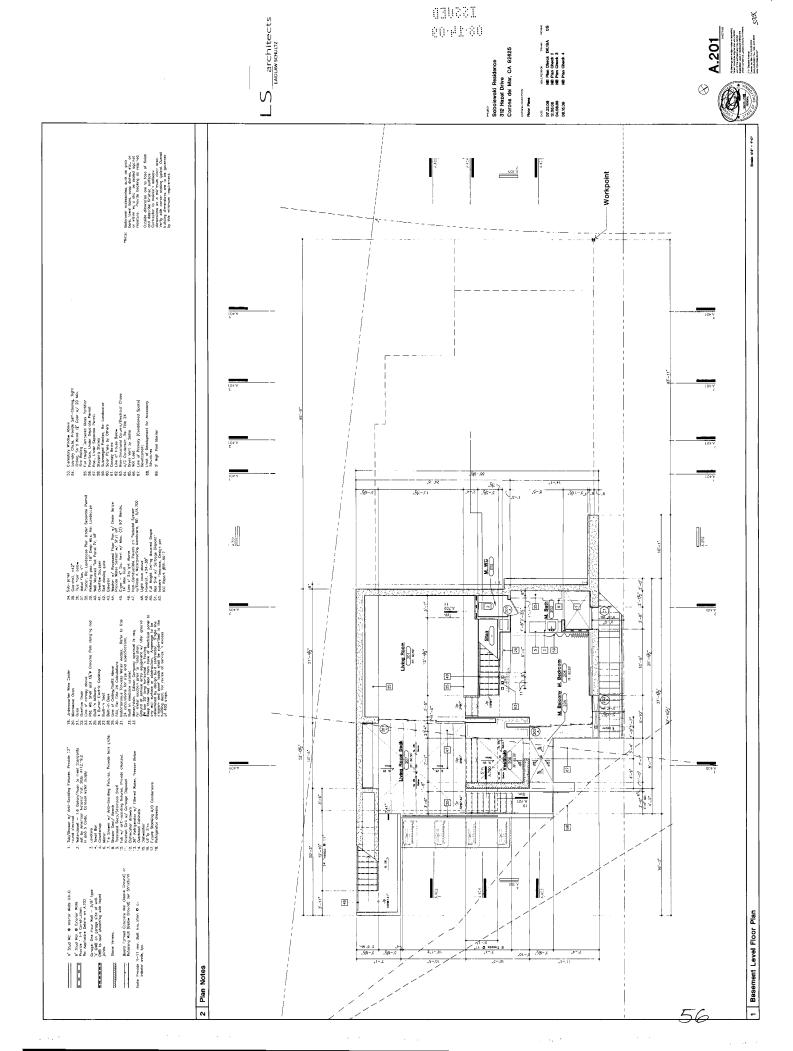
1550ED 08:14:09

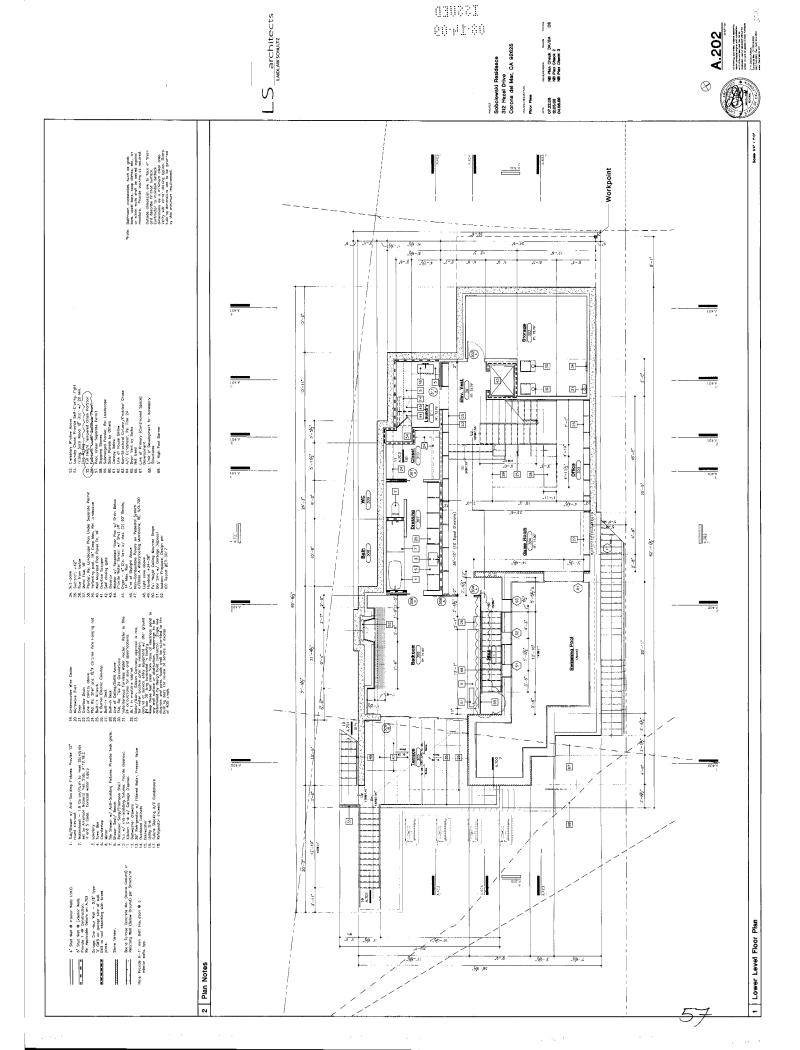
.101.

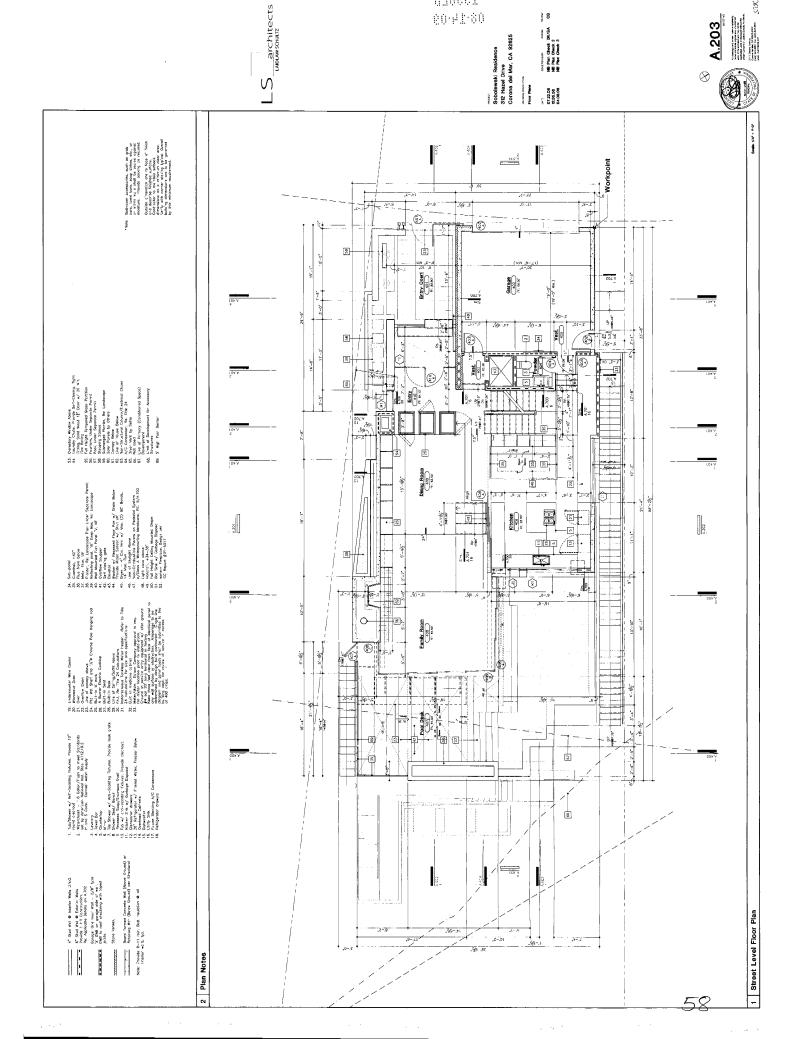


1550Ep

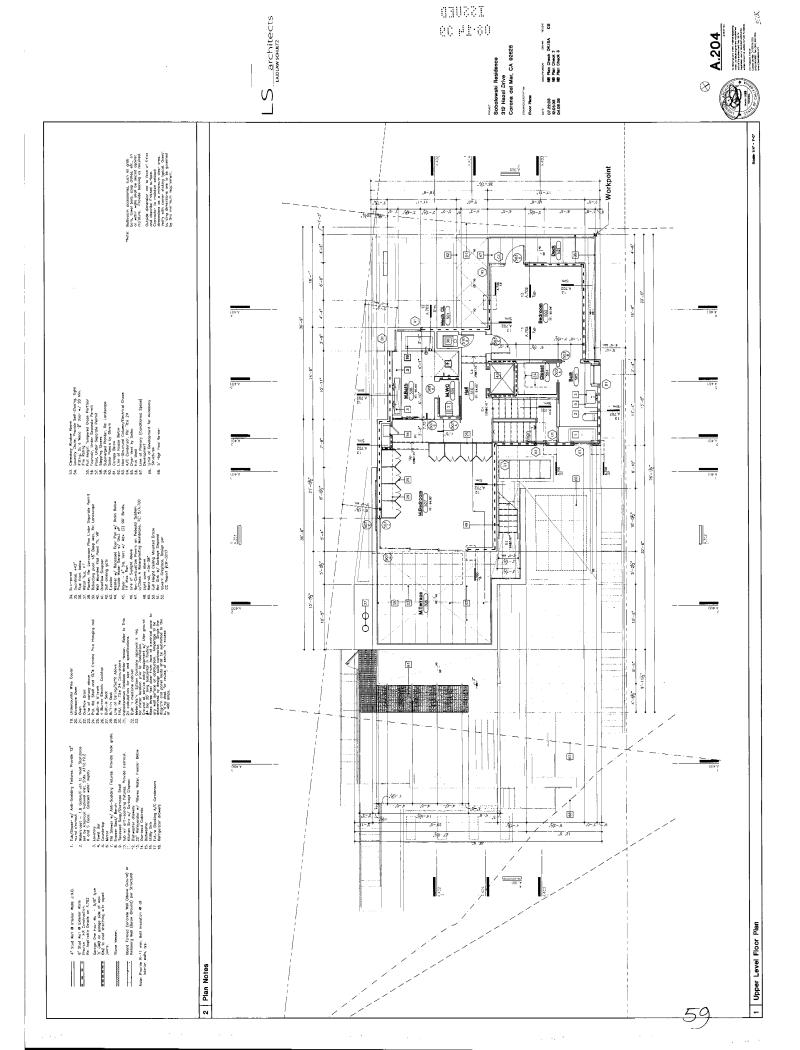


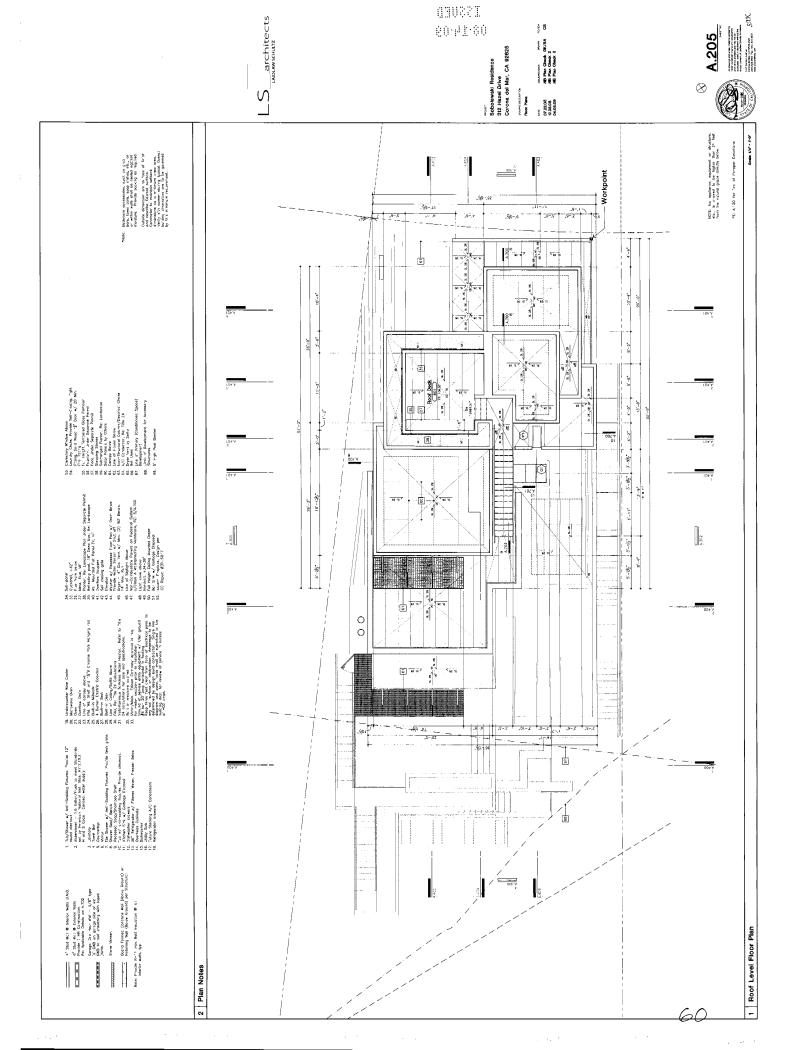


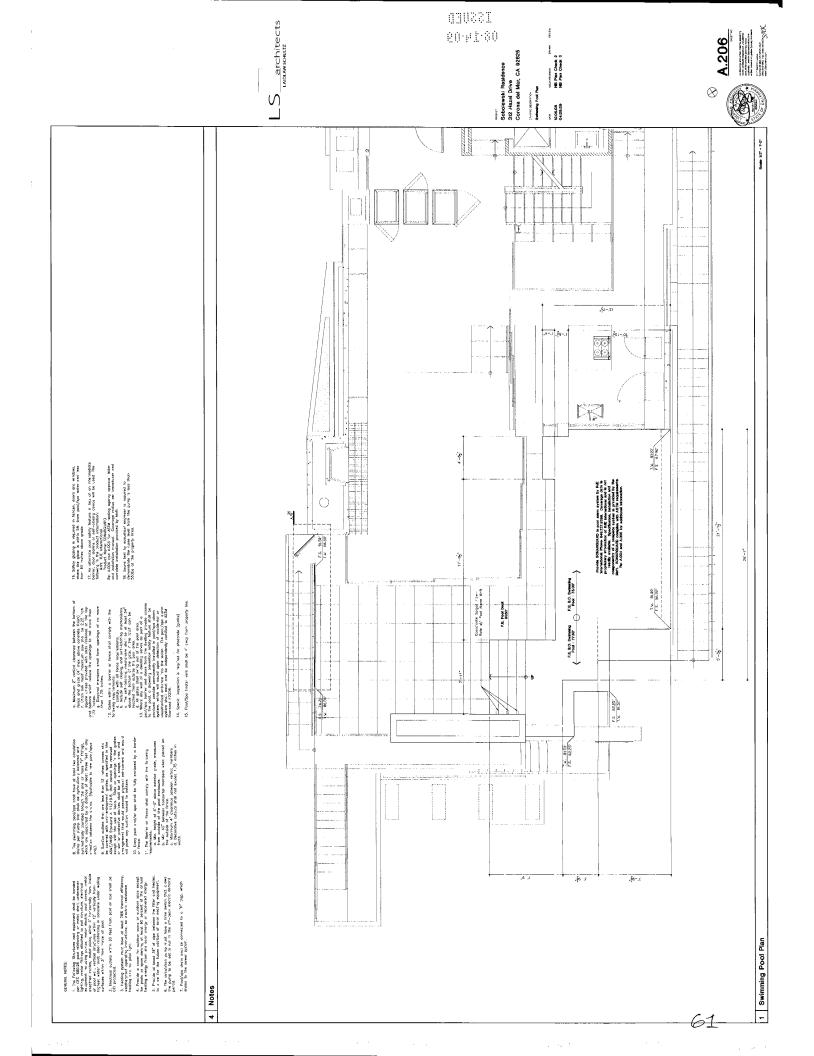


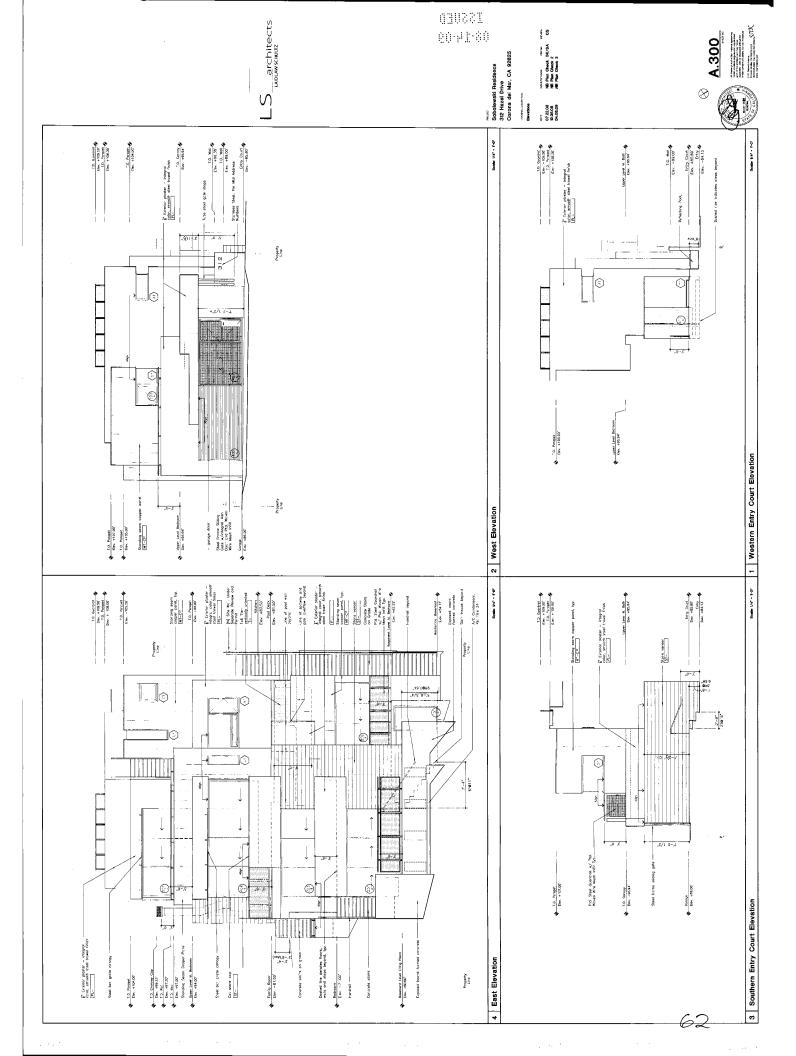


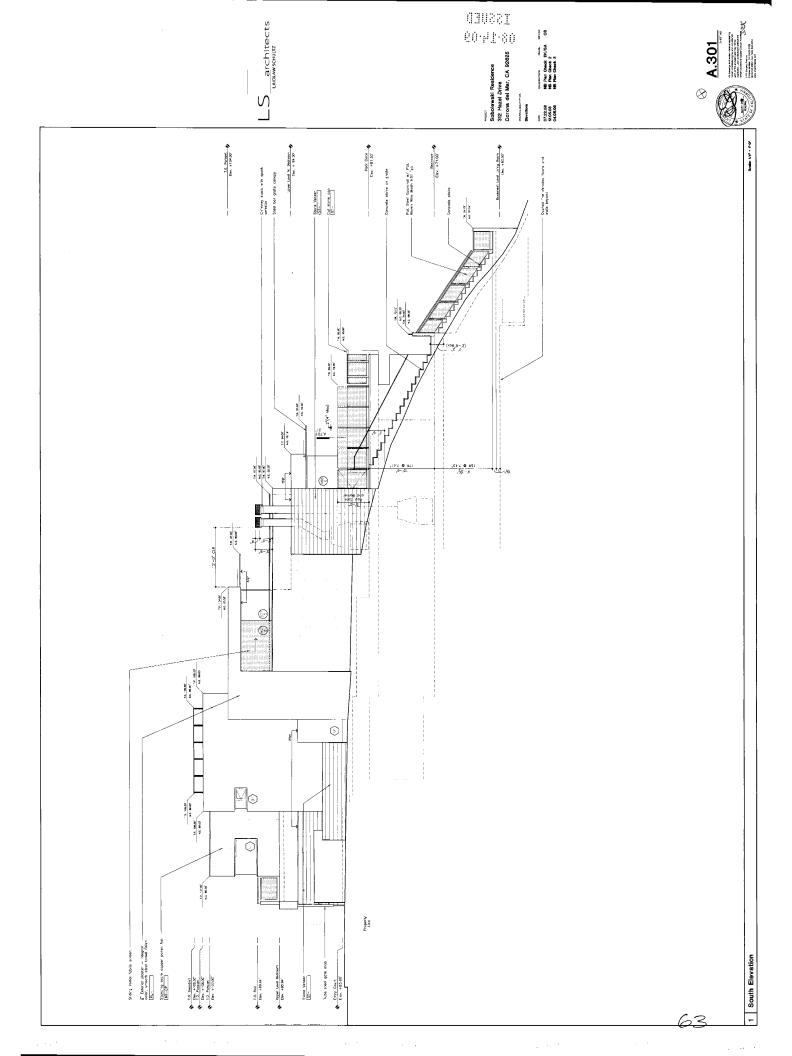
ISSUED

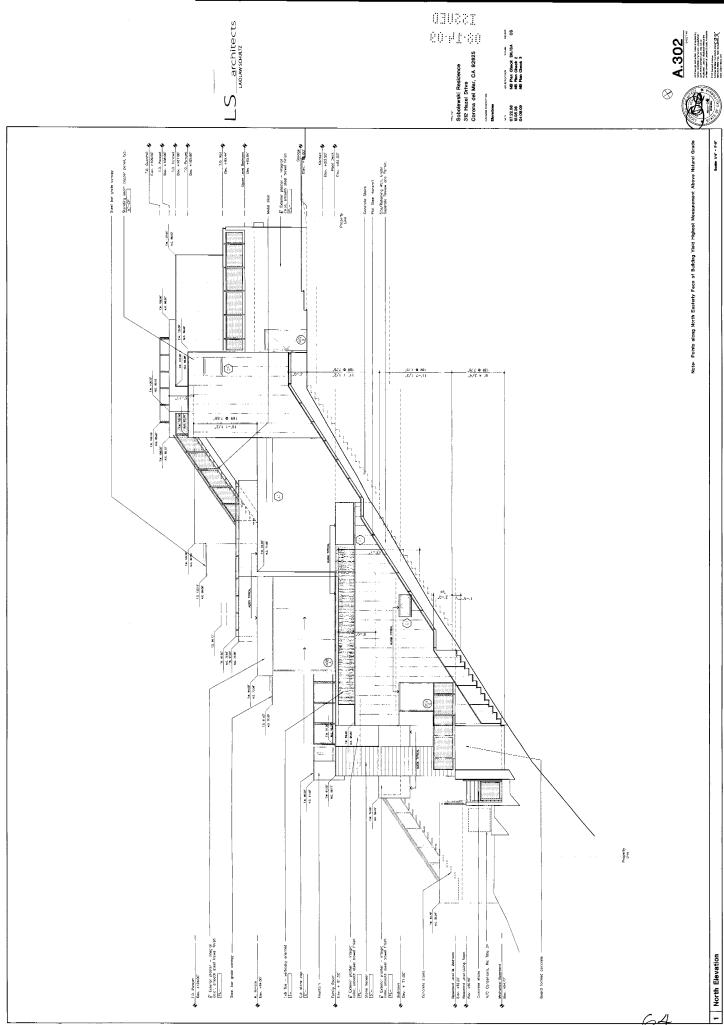






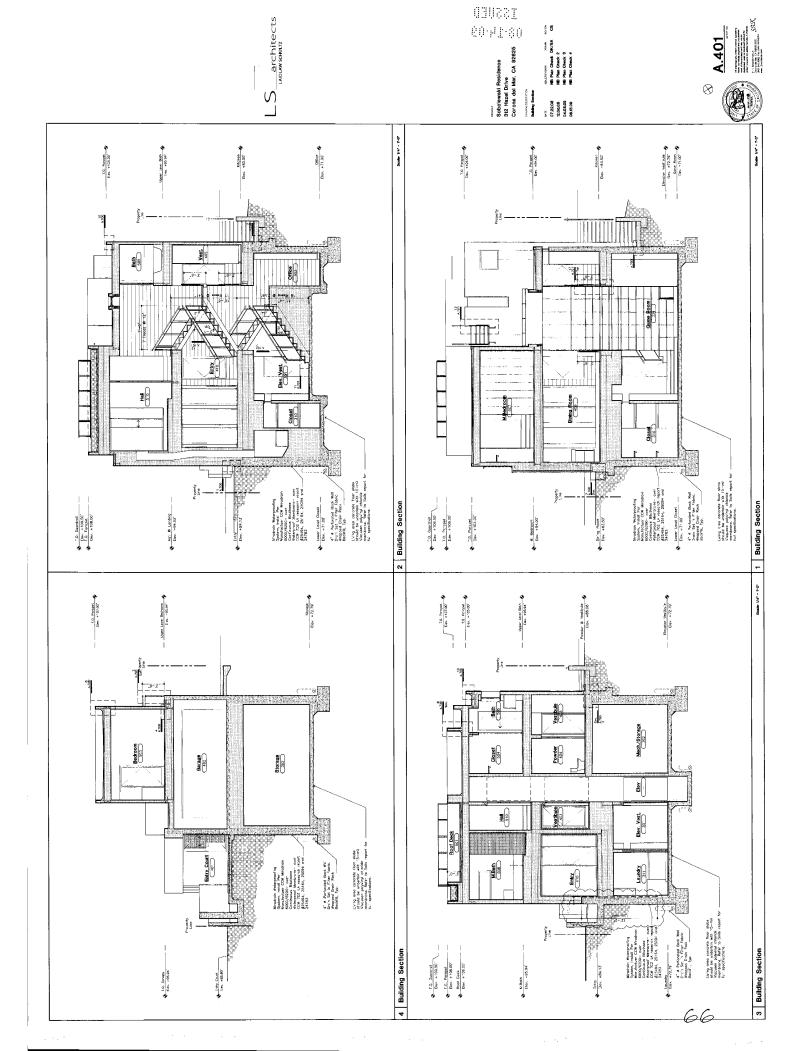


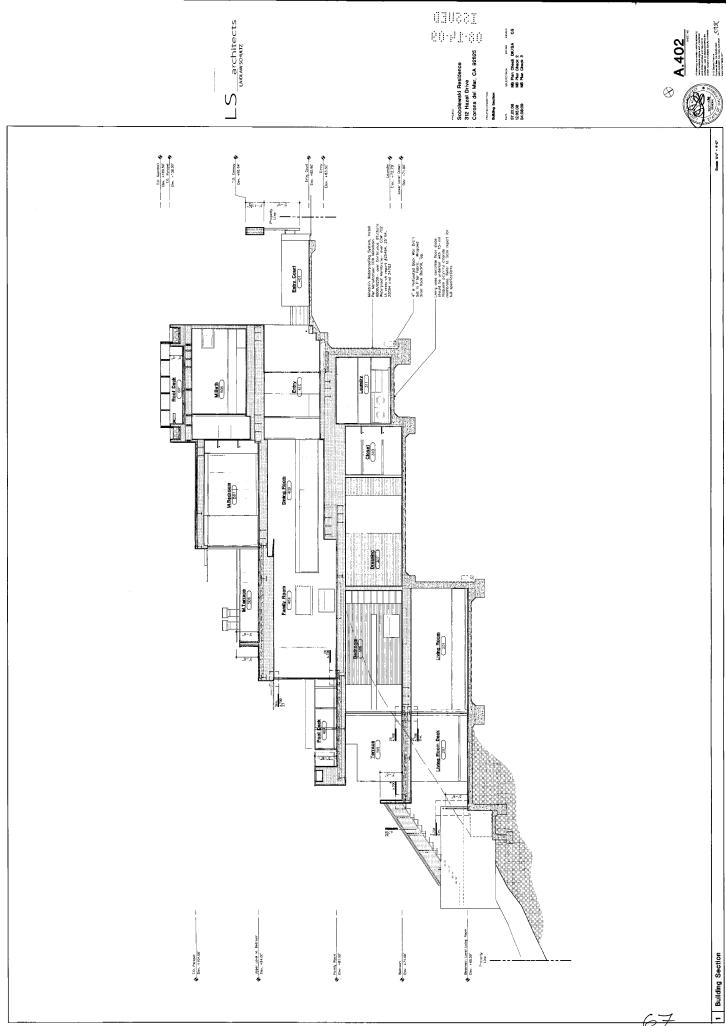




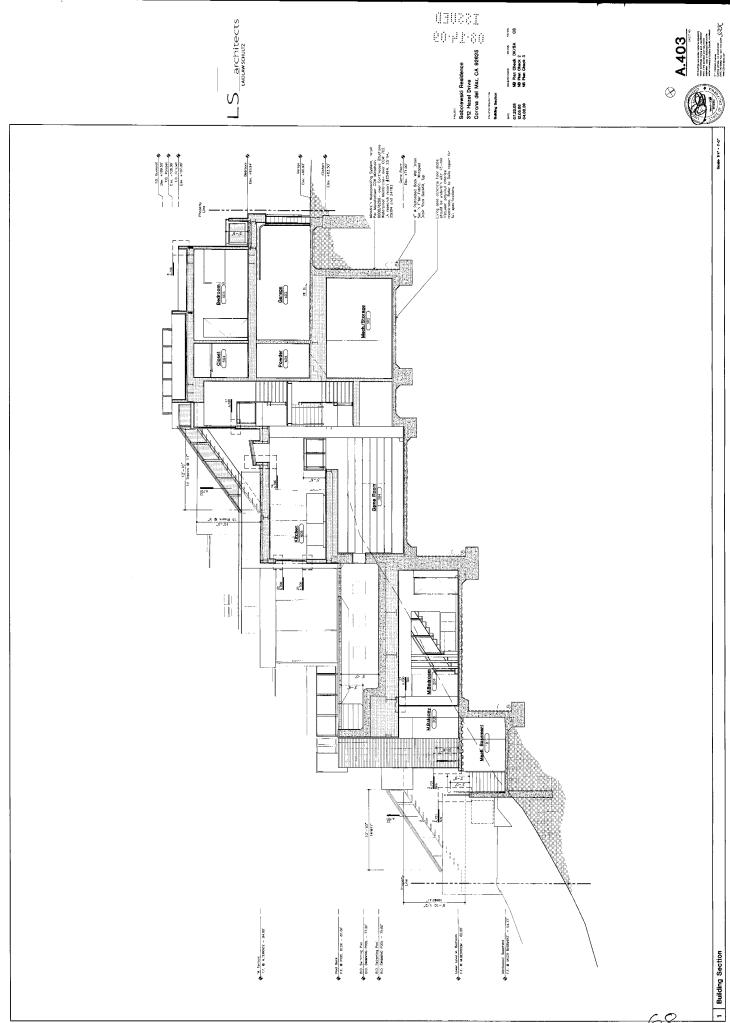
A.302

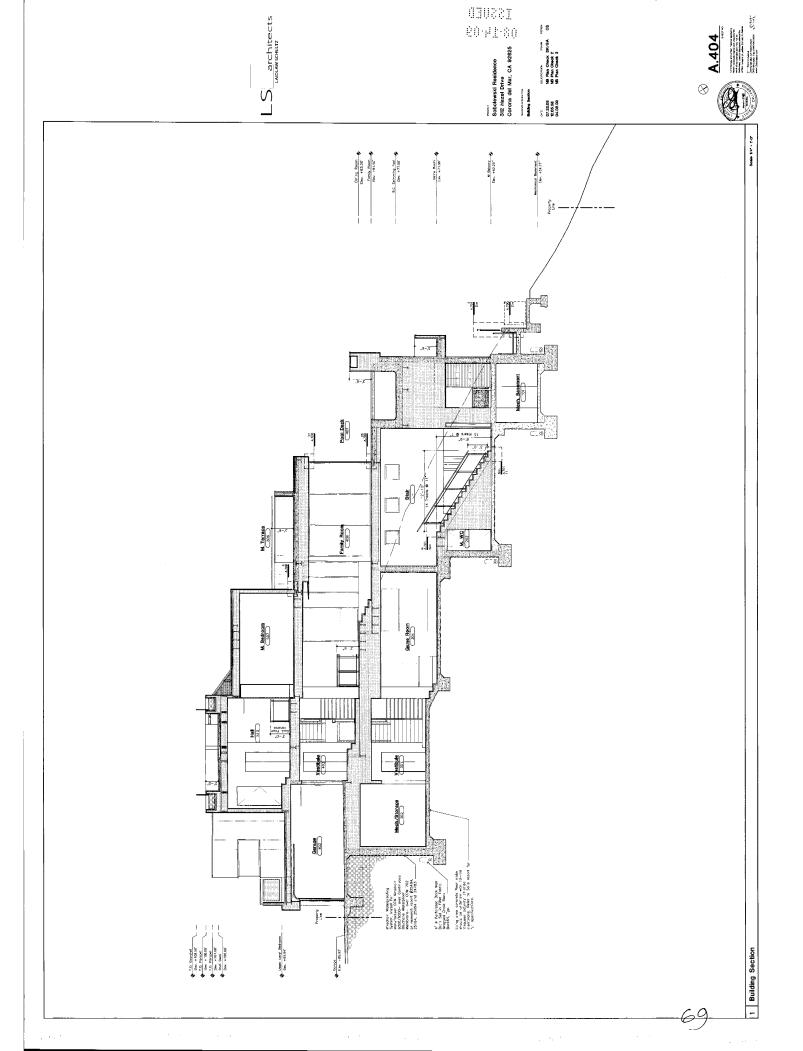




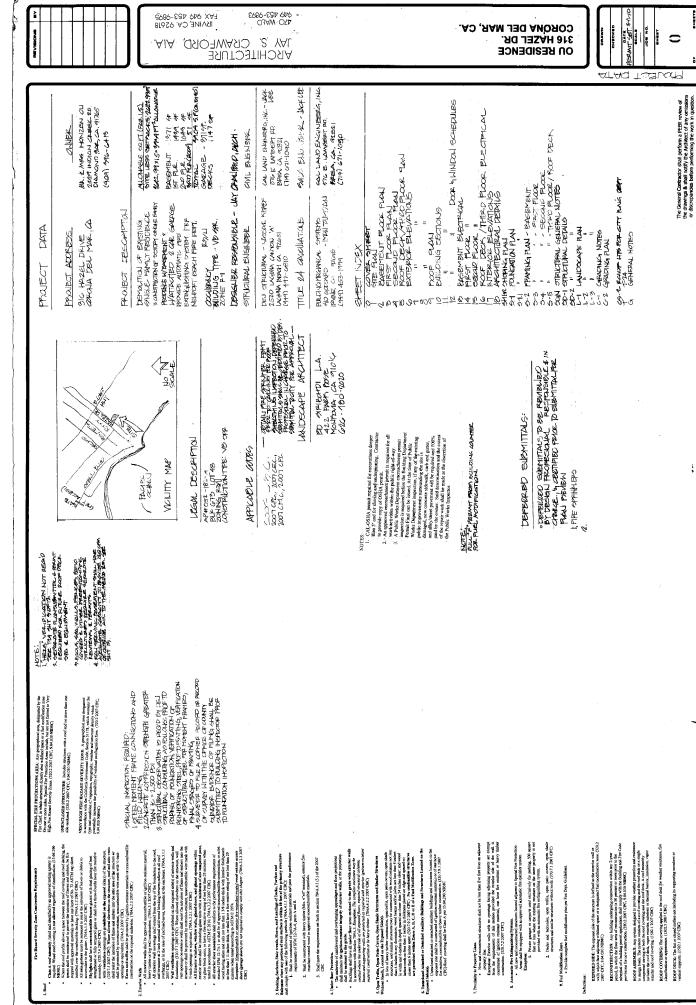


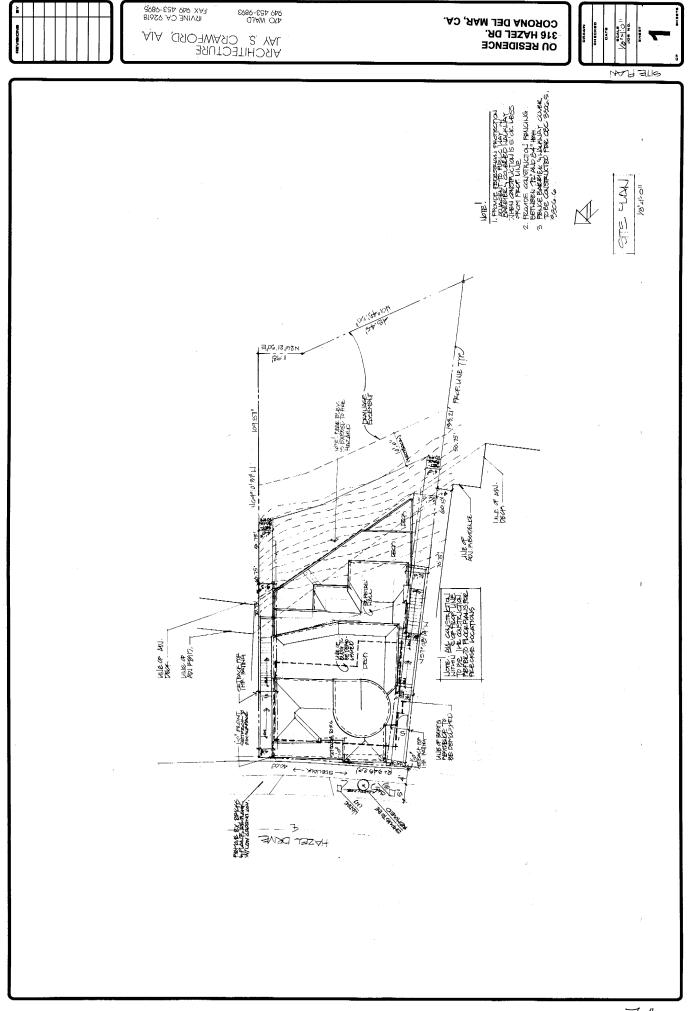
A.402



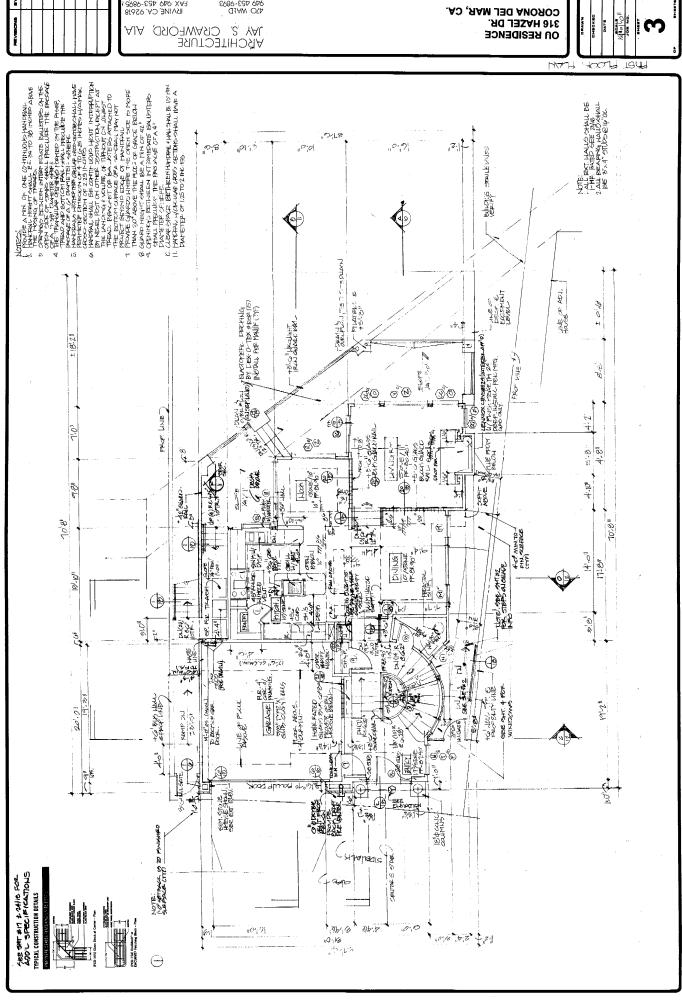


Original project plans for 316 Hazel Drive





07A O7A 5989-534 949 IRVINE CA 92698 OÙ RESIDENCE 316 HAZEL DR. CORONA DEL MAR, CA., ARĆHITECTURE JYY S. CRAWFORD, PAREMENT FLOOK MAJESTIC. PERIOR SERVICE USE DVBR SERIES DIRECT VENT GAS FIREPLACES Vermont Castings, Majestic Produce on organization of the Castings of the 200 membershaped for 800 506 460 membershaped for 800 506 460 CEPTION ON # 2 FOR DOSE 4 WINTON SOMEDIMES • + S.S. 12,617 (B) 4.0 10,0 18,101 7 May Day A Ballon 12/10 +01-201/6-25/4 LAIR! 4,2 VEDIARM HOLDER BOTH PROP. UNE? PENTER JOHN TO FINE Electrical Room - Dumbwaiters Typical Electrical Layout 117100 10 1/16 10 1/16



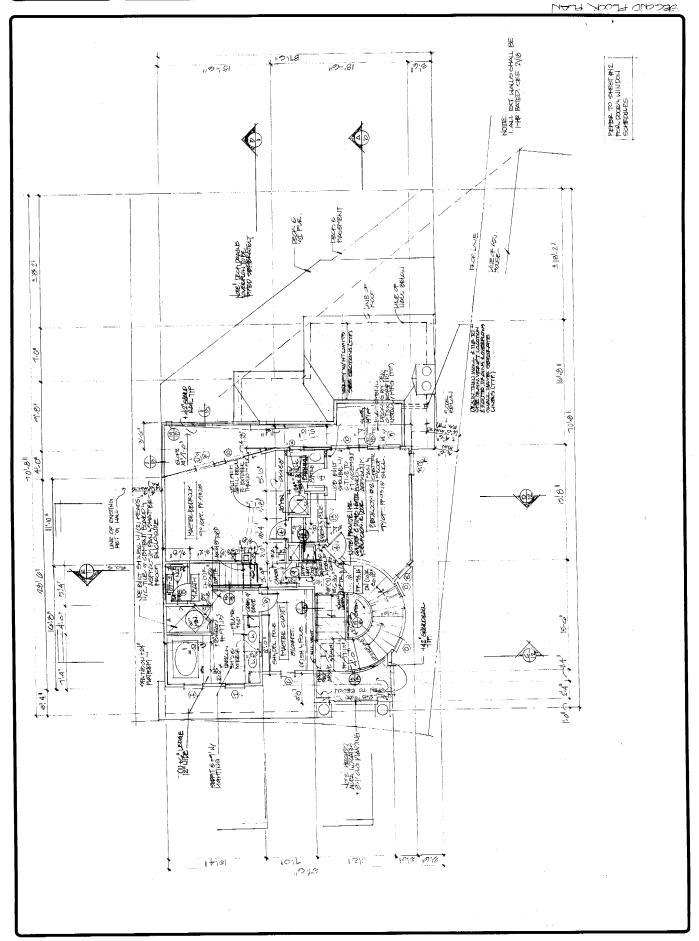
FAX 949 453-9895

949 453-9893 470 WALD

COBONA DEL MAR, ČA. 316 HAZEL DR. 316 HAZEL DR.

010 NYFD



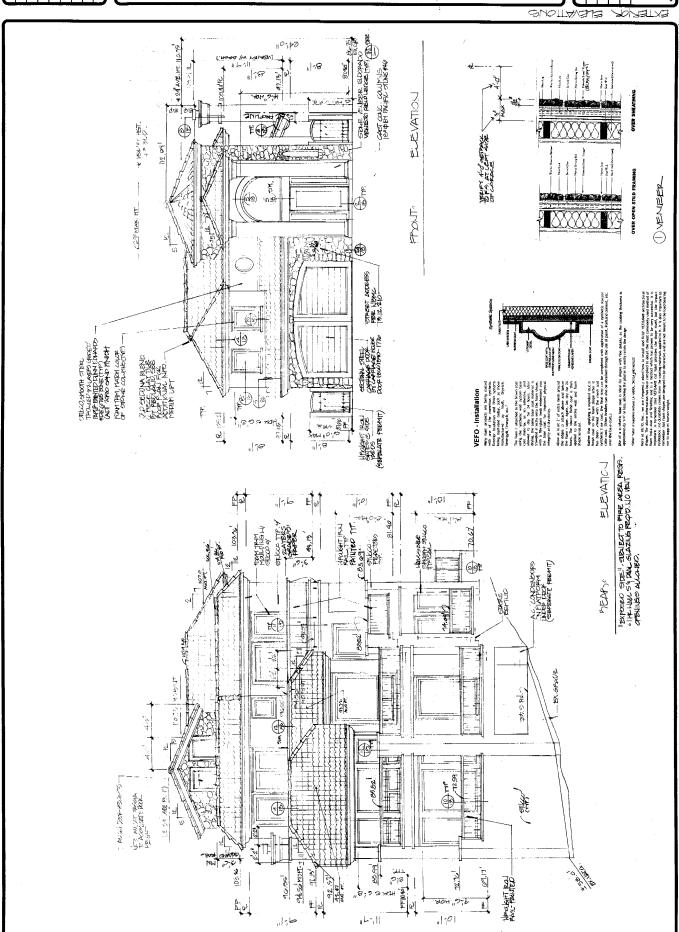


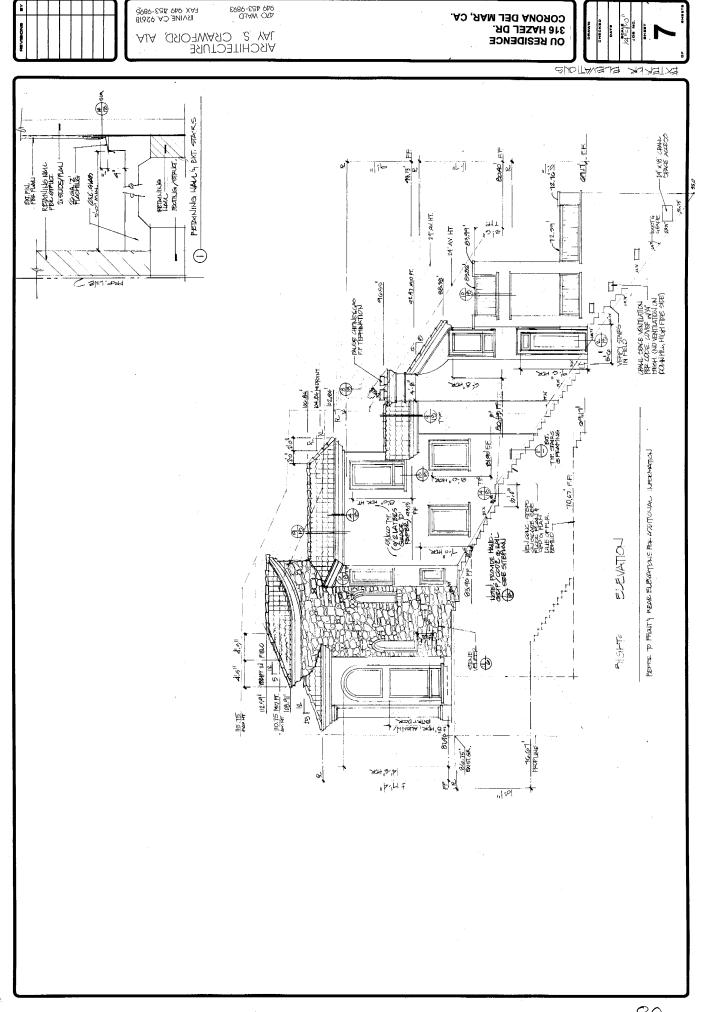
CORONA DEL MAR, CA. 316 HAZEL DR. OU RESIDENCE ARCHITECTURE JAY S. CRAWFORD, ALA MANY ADOUT ADOUT FLUOR AOOJA QAIHT 1274 18,9 THE TO SHEET HIS TO BOOK TAINDON SCHEDUBE 18 10,8 UNE OF EXIST'S PET'S UNY POST PERCOL & C ann There to to ,01;1 112.171

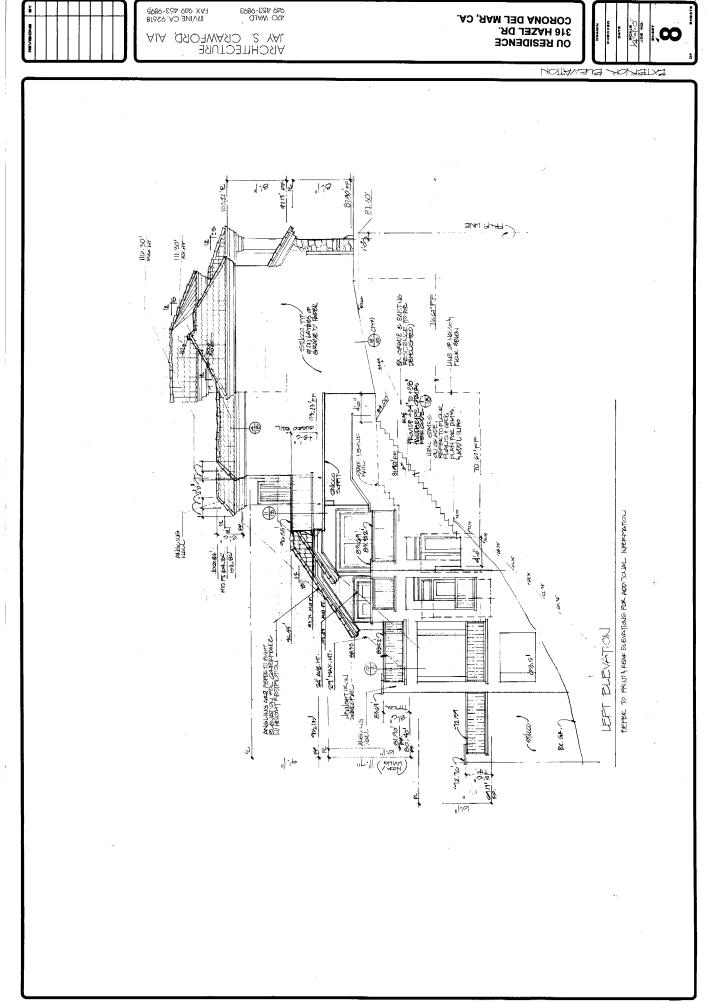
FAX 949 453-9895

OU RESIDENCE 316 HAZEL DR. CORONA DEL MAR, CA.









FAX 949 453-9895 COKONA DEL MAR, CA. 316 HAZEL DR. OU RESIDENCE ARCHITECTURE AY S. CRAWFORD, ALA MADF 90009 (UBGHT 15 to Tollos/Sq -10'xlo')
11 UPE-PRESEMPILGE TICE
BNDS 15 GAC. THOUSE OF THE CLAY
THE BY RECLAND, CHE OFFICE,
THOUGHT, NORLY PER MED #EPHOR A PROVIDE CATTERS IN STEED OF THE LOCATIONS IN PIECE POOF NOTES! OHAGIN ATTLY YEATT (TYP.) TIMA WATINIAN WIN. Phys. under ₹**©** DOWNSRUT (TTE). SE Ken

FAX: 949 453-9895 949 453-9893 OU RESIDENCE 316 HAZEL DR. CORONA DEL MAR, CA. ARCHITECTURE ALA S. CRAWFORD, ALA. HOLTDAR BHIQUING bret la Britt piece flating beite Remides/ B SECTION AT TRAISH BUTKY, DRING

19

18

15.75

SILVALE SECTION

OU RESIDENCE

OUR RESIDENCE

ARCHITECTURE

ARCHITECTURE

ARCHITECTURE

CORONA DEL MAR, CA. 1

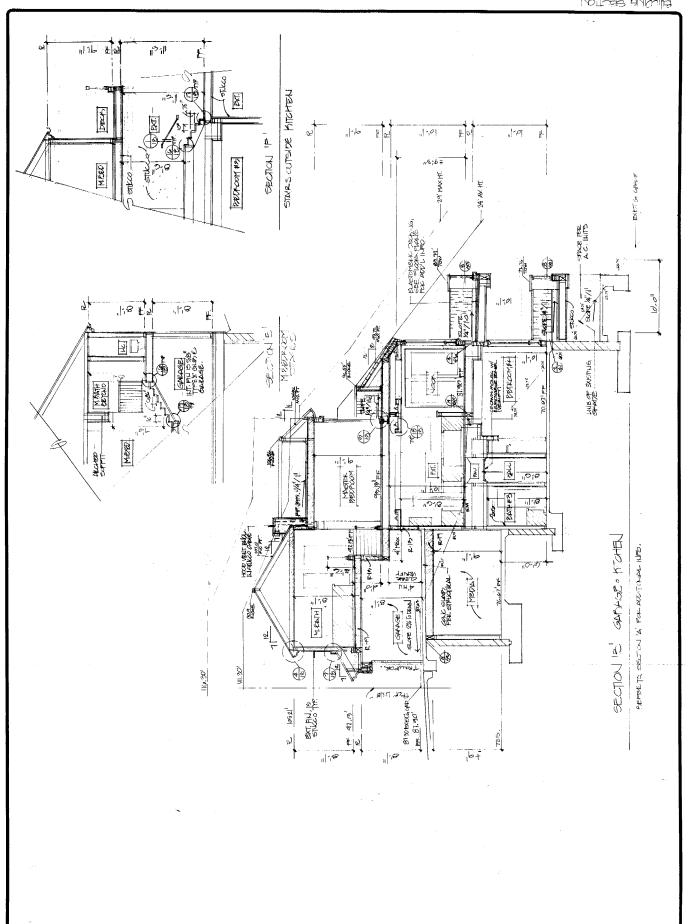
ARCHITECTURE

ARCHITECTURE

CORONA DEL MAR, CA. 1

ARCHITECTURE

ARCHITEC



OURESIDENCE

OURESIDENCE

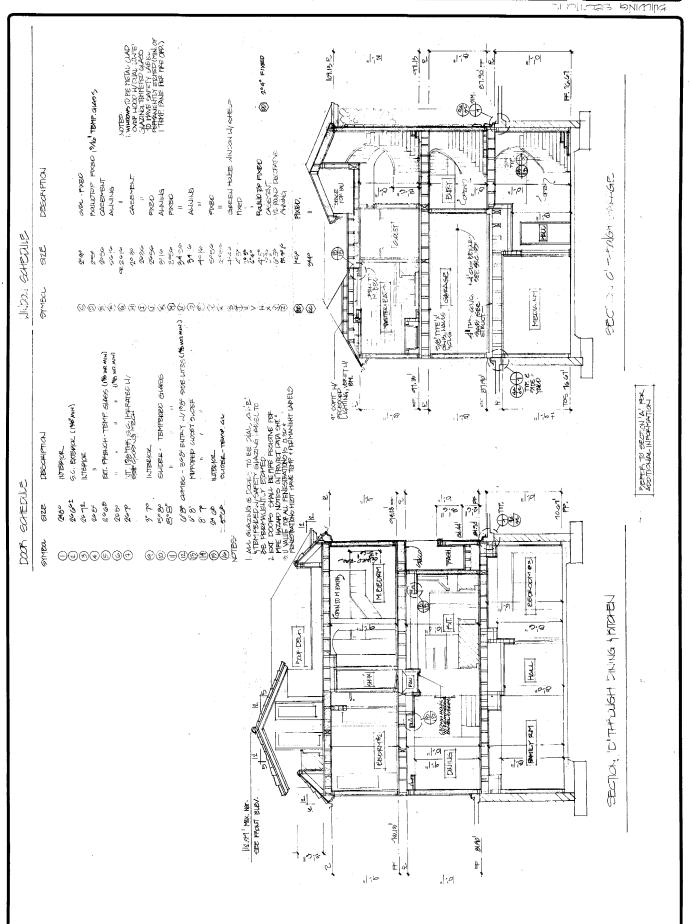
OURESIDENCE

OURESIDENCE

OURESIDENCE

CORONA DEL MAR, CA.

AJO WALD



Development Limit Determination for 316 Hazel Drive dated February 7, 2013

# NEWPORT BEACH

#### COMMUNITY DEVELOPMENT DEPARTMENT

#### PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663 (949) 644-3200 Fax: (949) 644-3229 www.newportbeachca.gov

February 7, 2013

Honzen Ou 2229 Indian Creek Drive Diamond Bar, CA 91765

Re:

Predominant Lines of Existing Development

316 Hazel Drive, Corona del Mar

Dear Mr. Ou,

This letter is in response to your request for clarification of development limits for future construction located at 316 Hazel Drive. Development of the property is subject to the General Plan, Coastal Land Use Plan, Zoning Code, and Municipal Codes (including the locally adopted Building and Fire Codes) in effect as of the time permits are issued. General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 specify:

"Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of <u>existing development</u> by establishing a development stringline where a line is drawn between nearest <u>adjacent corners of existing structures</u> on either side of the subject property. Establish development stringlines for principle structures and accessory improvements." (Emphasis added)

Implementation of this policy is based upon development at the time a building permit is issued. It is a flexible policy that is dependent on the current circumstances of the property and adjacent development.

Permits for the abutting lot at 312 Hazel Drive (Plan Check No. 1511-2008) were issued on August 17, 2009, and subsequently expired on January 31, 2011.

As you know, in 2009, construction plans were submitted and approved for a new single-family residence at the subject property, 316 Hazel Drive (Plan Check No. 0641-2009). The permit was issued on May 24, 2010, based upon the existing development pattern and the building permit issued for 312 Hazel Drive. The building permit

associated with 316 Hazel Drive is no longer valid because it was cancelled as of February 9, 2012.

Given that the development of 312 Hazel Drive was not implemented and permits for that project are no longer valid, we can no longer use that development pattern to identify stringlines for permits today or in the future unless the development pattern changes in the future. I have reviewed the plans that you provided for 316 Hazel Drive and determined that the stringlines depicted are not consistent with the policies cited above.

Since conditions have changed and the expired and cancelled permits are no longer applicable, staff must identify the predominant lines of existing development (stringlines) based upon the existing structures, which are shown in the attached exhibit. As noted above, the stringlines may be reevaluated at a later date if the development pattern of adjacent properties changes in the future.

If you disagree with the determination provided in this letter, you may file an appeal to have this matter reviewed by the Planning Commission. Appeals must be filed with the Community Development Department within fourteen (14) days following the date of this letter (by **February 21, 2013**) and the current fee for processing is \$4,466.00. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200. If you have any questions about this matter, please do not hesitate to contact Makana Nova, Assistant Planner at mnova@newportbeachca.gov or (949) 644-3249.

Sincerely,

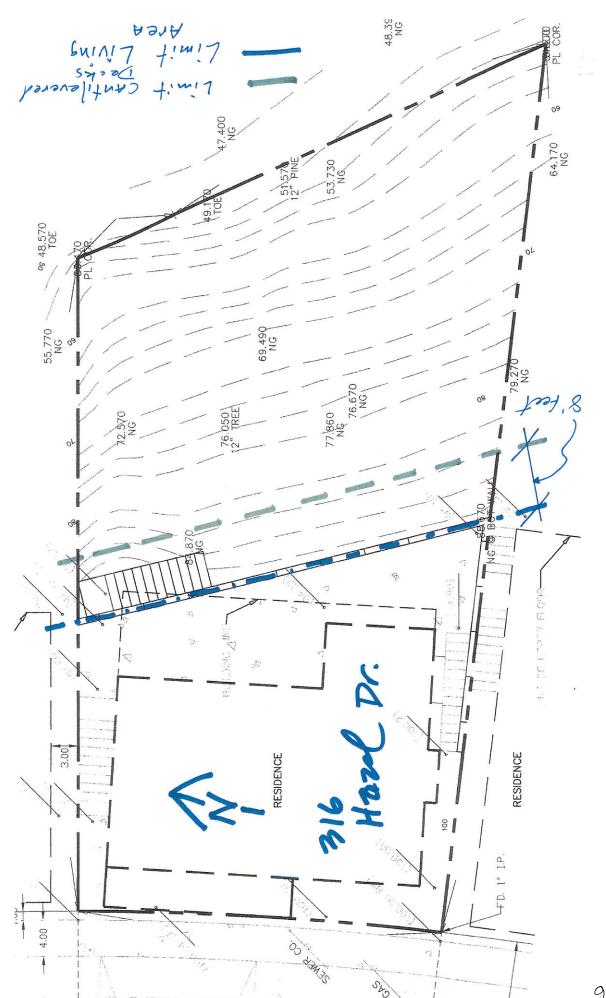
Kimberly Brandt, AICP

Community Development Director

Attachments:

Development limit exhibit

Appeal form





Community Development Department Planning Division 3300 Newport Boulevard, Newport Beach, CA 92663 (949)644-3204 Telephone I (949)644-3229 Facsimile www.newportbeachca.gov

| For Office Use Only |  |
|---------------------|--|
| Date Appeal Filed:  |  |
| Fee Received:       |  |
| Received by:        |  |

| Application to appeal the decision of the:  | <ul><li>□ Zoning Administrator</li><li>□ Planning Director</li><li>□ Hearing Officer</li></ul> |  |  |  |  |
|---|--|--|--|--|--|
| Appellant Information:  | •  |  |  |  |  |
| Name(s):  |  |  |  |  |  |
| Address:  |  |  |  |  |  |
| City/State/Zip:   |  |  |  |  |  |
|   | Email:   |  |  |  |  |
| Appealing Application Regarding:  |  |  |  |  |  |
| Name of Applicant:  | Date of Decision:  |  |  |  |  |
| Project No. (PA):   | Activity No.:  |  |  |  |  |
| Site Address:   |  |  |  |  |  |
| Description:  |  |  |  |  |  |
| Reason(s) for Appeal (attach a separate shee  | et if necessary):  |  |  |  |  |
| <ul> <li>Along with application, please submit the following:</li> <li>Twelve (12) 11x17 sets of the project plans</li> <li>One set of mailing labels (on Avery 5960 labels) for all property owners within a 300-foot radius, excluding intervening right-of-ways and waterways, of the subject site.</li> </ul> |  |  |  |  |  |
| Signature of Appellant:   | Date:  |  |  |  |  |

Development Limit Determination for 312 Hazel Drive dated February 15, 2013



#### COMMUNITY DEVELOPMENT DEPARTMENT

#### PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663 (949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

February 15, 2013

David Wood 17 Corporate Plaza Drive, Suite 200 Newport Beach, Ca 92660

Re:

Predominant Lines of Existing Development

312 Hazel Drive, Corona del Mar

Dear Mr. Wood,

This letter is in response to your request for clarification of development limits for future construction located at 312 Hazel Drive. Development of the property is subject to the General Plan, Coastal Land Use Plan, Zoning Code, and Municipal Codes (including the locally adopted Building and Fire Codes) in effect as of the time permits are issued. General Plan Policy NR23.6 (Canyon Development Standards) and Coastal Land Use Plan Policy 4.4.3-18 specify:

"Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements." (Emphasis added)

Implementation of this policy is based upon development at the time a building permit is issued. It is a flexible policy that is dependent on the current circumstances of the property and adjacent development.

As you know, in 2009, construction plans were submitted and approved for a new single-family residence at the subject property, 312 Hazel Drive (Plan Check No. 1511-2008). Permits were issued on August 17, 2009, and subsequently expired on January 31, 2011.

Staff has reviewed the topographic survey for 312 Hazel Drive and determined that the stringlines used for Plan Check No. 1511-2008 are not consistent with the policies cited

above. Based upon the survey, staff has identified the predominant lines of existing development (stringlines) based upon the existing structures, which are shown in the attached exhibit. The stringlines may be reevaluated at a later date if the development pattern of adjacent properties changes in the future.

If you disagree with the determination provided in this letter, you may file an appeal to have this matter reviewed by the Planning Commission. Appeals must be filed with the Community Development Department within fourteen (14) days following the date of this letter (by **March 1, 2013**) and the current fee for processing is \$4,466.00. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200. If you have any questions about this matter, please do not hesitate to contact Makana Nova, Assistant Planner at <a href="mailto:mnova@newportbeachca.gov">mnova@newportbeachca.gov</a> or (949) 644-3249.

Sincerely,

Kimberly Brandt, AICP

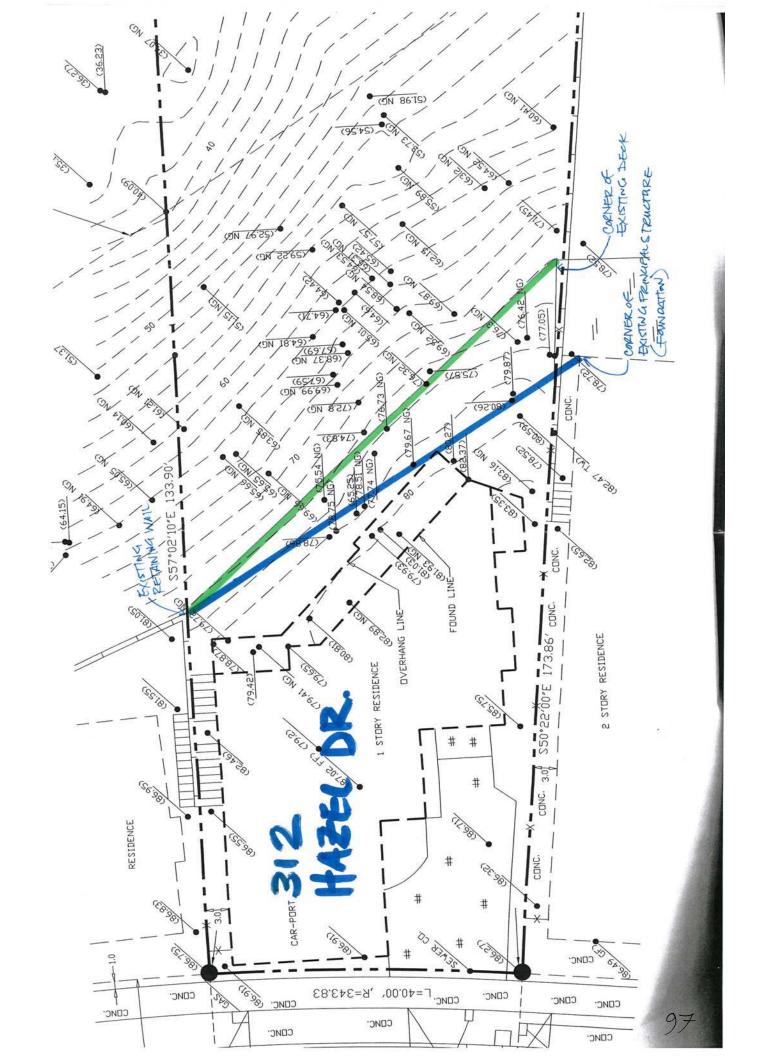
Community Development Director

Attachments:

Development limit exhibit Appeal form

Cc:

Property owner
Diane Knight
312 Hazel Drive
Corona del Mar, CA 92625





Community Development Department Planning Division 3300 Newport Boulevard, Newport Beach, CA 92663 (949)644-3204 Telephone I (949)644-3229 Facsimile www.newportbeachca.gov

| For Office Use Only |  |
|---------------------|--|
| Date Appeal Filed:  |  |
| Fee Received:       |  |
| Received by:        |  |

| <ul><li>□ Zoning Administrator</li><li>□ Planning Director</li><li>□ Hearing Officer</li></ul>  |  |  |  |  |
|---|--|--|--|--|
|   |  |  |  |  |
|   |  |  |  |  |
|   |  |  |  |  |
|   |  |  |  |  |
| Email:  |  |  |  |  |
|   |  |  |  |  |
| Date of Decision:   |  |  |  |  |
| Activity No.:   |  |  |  |  |
|   |  |  |  |  |
|   |  |  |  |  |
| eet if necessary):  |  |  |  |  |
| following:  |  |  |  |  |
| s   |  |  |  |  |
| One set of mailing labels (on Avery 5960 labels) for all property owners within a 300-foot radius excluding intervening right-of-ways and waterways, of the subject site. |  |  |  |  |
| Date:   |  |  |  |  |
|   |  |  |  |  |

Appeal Application for 316 Hazel Drive



Community Development Department Planning Division 3300 Newport Boulevard, Newport Beach, CA 92663 (949)644-3204 Telephone I (949)644-3229 Facsimile www.newportbeachca.gov

| For Office Use Only        |
|----------------------------|
| Date Appeal Filed: 2/25/13 |
| Fee Received: 2/25/13      |
| Received by: R. MAY        |

| , , , , , ,   |
|---|
| Application to appeal the decision of the:  Zoning Administrator Planning Director  |
| Amellant Information: FEB 2 5 2013  |
| Appellant Information:  |
| Name(s): FONZEN OU DEVELOPMENT  Address: ZZZY INDIAN CREEK ROAD TO NEWPORT SERVENT  City/State/Zip: DIMOND BIAN C/S 91765 NEWPORT  Phone (909) 5173-9614 Fax: Email: 218 ROSWELL GHAR |
| Address: 2229 INDIAN CREEK ROAD TON NEWDORL SERVICE   |
| City/State/Zip: DIAMOND BIAN C/8 91765  |
| Phone (909) 573 - 9611 Fax: Email: 218 ROSINEL CO GNA   |
| Appealing Application Regarding:  |
|   |
| Name of Applicant: HONZEN OU Date of Decision: 2-20-20/3  Project No. (PA): PLEN CHECK 0641-2009 Activity No.:  |
| Project No. (PA): PLon ateac to 0641-2009 Activity No.:   |
|   |
| DEVELOPEMENT OF 316 HAZEL DR CDM  DEVELOPEMENT OF 316 HAZEL DR CDM  |
| DEVELOPEMENT OF 316 HAZER DR CDM  |
| DEVELOPEMENT OF 316 HAZEL DR CDM<br>DISBGREEMENT WITH THE PARTE DETENDINATION   |
|   |
| Reason(s) for Appeal (attach a separate sheet if necessary):  |
| plesse SEE ATTOUTED   |
|   |
|   |
|   |
|   |

Along with application, please submit the following:

- Twelve (12) 11x17 sets of the project plans
- One set of mailing labels (on Avery 5960 labels) for all property owners within a 300-foot radius, excluding intervening right-of-ways and waterways, of the subject site.

Signature of Appellant:

Plan check # 0641-2009

Site address: 316 Hazel Dr. Corona del Mar

Applicant: Honzen Ou

#### Reasons for appeal:

- 1) In the meeting with Ms. Makana Nova and Mr. James Campbell on February 7, 2012, I was informed that my house can longer use the original stringline because the stringline was based on the approved permit of house, 312 Hazel and the permit of the house has expired. The construction plan of my house started the end of 2008. Mr. Jay Crawford, my architect, was given by planning department a hypothetical stringline based on a proposed construction plan (not in the permit stage yet) of the house at 312 Hazel and the adjacent house of my neighbor 320 Hazel. A construction plan of 3,904 sq. ft. of my house was then filed for plan check on May 11, 2009, 3 months before the permit of the house 312 Hazel approved on August 17, 2009. So, technically, the construction plan of my house is based on a proposed stringline that is drawn and approved by the planning department and has nothing to do with the permit of 312 Hazel, whether it is current or not. This hypothetical stringline still dose exist. I believe the permit of 312 Hazel would be granted if the owner resubmits the plan since nothing has changed in construction code up to now.
- 2) For economical reason, I left my permit of my house expired on February 9, 2012 with a impression that I would be granted the same stringline and footage of 3,904 sq. ft. if I resubmit it later. Nobody from the planning department has indicated to me that I would lose both established stringline and footage. Should I was advised of above, I would have built the house then and not to suffer from a big financial loss.
- 3) Based on the letter from Ms. Kimberly Brandt dated February 7, 2013, a new stringling line was drawn and my house would be planned at 2,800 sq. ft., 1,100 sq. ft. less than the original plan. According to recent sales of houses in Corona del Mar, the average price is \$928.08 per sq. ft. The planning cost of expired permit and new plan of 2,800 sq. ft. would be \$200,000. My total loss would be more than \$1,200,000. This is a bit harsh to a responsible resident who has been paying a lot tax to the city faithfully.

Your consideration of granting me of original plan is highly appreciated!

Honzen Ou

February 13, 2013

Appeal Application for 312 Hazel Drive



Community Development Department Planning Division 3300 Newport Boulevard, Newport Beach, CA 92663 (949)644-3204 Telephone I (949)644-3229 Facsimile www.newportbeachca.gov

| For Office Use On  | ıly        |
|--------------------|------------|
| Date Appeal Filed: | 02-28-2013 |
| Fee Received:      |            |
| Received by:       |            |

com

| THE POST OF THE PO |  |  |  |  |  |
|--|--|--|--|--|--|
| Application to appeal the decision of the:   | <ul><li>□ Zoning Administrator</li><li>□ Planning Director</li><li>□ Hearing Officer</li></ul> |  |  |  |  |
| Appellant Information:   | •  |  |  |  |  |
| Name(s): Diane Knig  | ht   |  |  |  |  |
| Address: 312 Hazel   | Drive  |  |  |  |  |
| City/State/Zip: Corona Del   | Mar. CA 92625  |  |  |  |  |
| Phone. 714, 337 0288 Fax: 94   | 195154608 Email: diane @line-up.   |  |  |  |  |
| Appealing Application Regarding:   |  |  |  |  |  |
| Name of Applicant: There Is had  | ht Date of Decision: 2-15:13   |  |  |  |  |
| Project No. (PA): PA 2013 - 043  | Date of Decision: 2-15-13  Activity No.:   |  |  |  |  |
| Site Address: 312 Hazal  | Dr CDM CA  |  |  |  |  |
|  | with Mr Ou - (316 Hazel Dr)  |  |  |  |  |
| Descriptionappear  | WITH MIT OU - ( STO Hazel DV)  |  |  |  |  |
|  |  |  |  |  |  |
| Reason(s) for Appeal (attach a separate sheet if necessary):  Justification on separate sheet  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
| Along with application, please submit the fo   | llowing:   |  |  |  |  |
| Twelve (12) 11x17 sets of the project plans  |  |  |  |  |  |
| THORTO (12) TIXIT Sets of the project plans  |  |  |  |  |  |
| One set of mailing labels (on Avery 5960 labels) for all property owners within a 300-foot radius, excluding intervening right-of-ways and waterways, of the subject site.   |  |  |  |  |  |
| Signature of Appellant: <u>Law</u>   | night Date: 2-28-13  |  |  |  |  |

### Knight Appeal

"Staff's determination of the predominant lines of existing development is arbitrary, unnecessarily restrictive, and contrary to the previously established predominant lines of existing development. Among other things, the development setback established by the Planning Director: (1) is inconsistent with the definition of "predominant line of development" adopted by the City; (2) is inconsistent with the predominant line of development previously applied to the property; (3) deprives the property owner of rights enjoyed by adjoining property owners; and (4) arbitrarily restricts development of the Knight property based solely on the size of a single adjacent structure."

Sheppard Mullin Richter & Hampton LLP 650 Town Center Drive, 4th Floor Costa Mesa, CA 92626-1993 714.513.5100 main 714.513.5130 main fax www.sheppardmullin.com

714.424.2821 direct drosenthal@sheppardmullin.com

File Number: 35HF-176794

March 19, 2013

#### VIA E-MAIL AND FEDEX

Planning Commission City of Newport Beach 3300 Newport Boulevard Newport Beach, CA 92663

Re: Appeal of Stringline Determination for 312 Hazel Drive, Corona del Mar (Knight Appeal)

#### Dear Planning Commissioners:

On behalf of Diane Knight, this letter appeals the Stringline Determination for 312 Hazel Drive issued by the Planning Director on February 15, 2013. The lot under appeal (the "Lot") is located on lower Buck Gully south of Pacific Coast Highway in Corona del Mar. Knight0001 Under General Plan Policy NR 23.6 and Coastal Land Use Plan Policy 4.4.3-18, the City is required to establish a "predominant line of existing development" for new structures on Buck Gully. The Planning Director previously established primary and accessory "lines of development" for this Lot on January 10, 2008; this appeal requests reinstatement of those lines in accordance with approved building plans.

#### Background

The property was purchased by the Knight-Sobelewski family ("Knight") in 2003. In June 2007, the Planning Department imposed a diagonal Stringline at or about the rear setback of the existing house, based on the corners of the immediately adjacent structures. The family appealed this decision to the Planning Commission ("2007 Appeal"). A copy of the 2007 Appeal is attached as Knight0002-34. Before the hearing, the Planning Director identified a primary "line of development" at the same rear setback as the adjacent house to the south, and an accessory "line of development" on a diagonal along the 54' contour. A copy of the Planning Director's 2008 Determination is attached as Knight0049-59.

The Knights accepted the Planning Director Determination, withdrew the 2007 Appeal and completed building plans. A building permit was issued for a new, larger home (the "Project") in 2009, but expired in 2011 after Mr. Sobelewski became terminally ill. He died in July 2012 and Ms. Knight has listed the home for sale. Plans for the home are attached as Knight0010-15 (Exhibit 1 to the 2007 Appeal). Potential buyers have requested reinstatement of the building permit as a condition of purchase.

Planning Commission March 19, 2013 Page 2

In the original 2007 Appeal, the Knights requested establishment of a "predominant line of existing development" for Buck Gully in accordance with the General Plan and CLUP. They identified two possible predominant lines, based on the rear setbacks of a representative block of surrounding structures. The first "predominant line" was a primary setback based on the rear line of the 10 adjacent homes on lots with similar developable acreage, excluding lots with severe topography not present on the Lot. The alternate predominant line was a single line based on the rear line of all statutorily-defined development, including accessory structures, of the 15 adjacent homes. Both of the proposed lines attempted to avoid creating non-conforming structures. Using a structure-by-structure stringline, for instance, makes more than half of the existing homes non-conforming. A graphic study showing the effect of a stringline is attached as Knight0048.

At the same time, the City's General Plan/LCP Implementation Committee considered establishment of a predominant line of development along Buck Gully south of PCH. A map showing proposed 100' Development Areas along Buck Gully from the April 15, 2009 Committee Meeting is attached as Knight0042-43. The draft Committee Development Areas were similar, but somewhat larger than the Knight proposals for a predominant line. The Committee did not finalize a predominant line of development in 2009, but decided to defer adoption until preparation of the Implementation Plan.

In the absence of an adopted predominant line in 2007, the Planning Director determined primary and accessory development lines for the Lot that complied with all potential development setbacks. In making this Determination, the Planning Director also recognized site-specific factors affecting the Lot, including topography and a 32' or 120% variance in setbacks between the nearest points on adjacent structures. After consulting with the General Plan/LCP Implementation Committee, the Planning Director found the Project consistent with the site planning principles of Criterion No. 7 of Ordinance No. 2007-3 and the setback direction of the Committee. Knight0051-52.

Unfortunately, Mr. Sobelewski died before the home could be built. In response to an inquiry about reinstating the expired building permit in February 2013, the Planning Director applied the same diagonal Stringline challenged in the 2007 Appeal. The Stringline does not allow construction of the home approved in 2008 in reliance on the previous Planning Director Determination. This second appeal followed ("2013 Appeal"). Knight0035-37.

There have been no changes in the relevant sections of the General Plan, CLUP or Zoning Code since 2008 when the building permit was issued for 312 Hazel Drive. The "predominant line of existing development" policy was adopted by the City in 2005 and has not been modified since that time. The City and the Coastal Commission have both acknowledged on numerous occasions that the policy is intended to be applied in a flexible manner, with due regard for site-specific factors and development rights.

Ms. Knight cannot proceed with sale of her property unless the Planning Commission establishes a predominant line of development for the Lot. The line of development applied by the Planning Director in resolving the 2007 Appeal is consistent with existing policy and

Planning Commission March 19, 2013 Page 3

procedures, and will allow the sale to go forward. This 2013 Appeal should be granted and the previously-approved development lines shown at Knight0037 reinstated.

City Policies Require Application Of A Predominant Line of Development, Not A Stringline

General Plan Policy NR 23.6 (Canyon Development Standards) and CLUP Policy 4.4.3-18 (Natural Landform Protection) state:

Establish canyon development setbacks <u>based on the predominant line of existing development</u> for Buck Gully and Morning Canyon. Do not permit development to extend <u>beyond</u> the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements. (Emphasis added.)

Under the express language of the Canyon Development Policies, therefore, the City is required to establish and apply canyon setbacks based on the <u>predominant line of development</u>. A stringline is not a substitute for establishment of a predominant line, but a method of preventing construction beyond the predominant line.

The required setback is based on the predominant line of development for a representative group of homes along lower Hazel Drive. The Glossary defines "predominant line of development" as:

The most common or representative distance from a specified group of structures to a specified point or line (e.g. topographic line or geographic feature). For example, the predominant line of development for a block of homes on a coastal bluff (a specified group of structures) could be determined by calculating the median distance (a representative distance) these structures are from the bluff edge (a specified line).

The Glossary defines "development" as "the placement or erection of any solid material or structure; ... construction, reconstruction, demolition, or alteration of the size of any structure ..." The City typically considers development to include any structure requiring a building permit in the Coastal Zone, including decks, pools and retaining walls.

At the time of adoption, Coastal Commission Staff explained that the purpose of Policy 4.4.3 was to impose an overall "predominant line of development" along blocks of homes. After discussing application of the new predominant line of development standard to costal bluffs in suggested modifications to the 2005 CLUP Update, the Staff Report stated:

Coastal canyon development will be regulated in much the same way. Where there was previously no setback for development on canyon lots, there is now a requirement to comply with the "predominant line of development." Suggested

Planning Commission March 19, 2013 Page 4

Modification 134 provides this new standard for development along Buck Gully and Morning Canyon. The addition of a canyon setback regulation in these areas will prevent significant landform alternation and limit encroachment into natural habitats." Suggested Modifications, p. 80, NPB-MAJ-1-04, October 13, 2005 (Item Th 8d). An excerpt of the Coastal Commission Staff Report is attached as Knight0044.

The City accepted the Commission modifications, including Policy 4.4.3-18, in December 2005. In conversations with City Staff in 2007, they advised the intent of Policy was to allow flexibility in establishing setbacks in built-up areas like Hazel Drive on lower Buck Gully.

# The Approved Building Plans Are Consistent With Any Predominant Line of Development

This 2013 Appeal can be resolved by establishing an individual predominant line of development for the Knight Lot without affecting the entire block of homes. Staff concurs that this approach is allowed under the CLUP and consistent with City procedures. Ms. Knight proposes a predominant line that meets the following tests: it grants similar development rights to similar properties; it applies a standard that avoids creating non-conformities on existing lots to the extent possible; and it does not interfere with adoption of a predominant line for the entire block of homes in the future. The building plans previously approved by the Planning Director meet all of these tests.

The purpose of a predominant line of development is to control encroachment into natural areas, while respecting the rights of adjacent owners to use their property on an equitable basis. In this case, two aerial photographs are worth several thousand words. Two photographs of lower Hazel Drive, dated 3/5/2013, are attached as Knight0045-46; 0062. As clearly shown, "development" extends almost to the bottom of Buck Gully on a number of lots. The Knight Lot is tucked behind a much larger structure, blocking any views to the south. All but 4 lots extend farther into the Gully than the Knight Lot.

The General Plan/LCP Implementation Committee considered a 100' setback from the front property line as the predominant line of development, including both primary and accessory development in the same zone. Knight0042-43. This predominant line did not make any of the existing structures non-conforming, and would comfortably allow construction of the Knight Project, which extends 54'11' from the property line for the primary structure and less than 30' for decking and other accessory structures. As approved, the plans are consistent with the 100' setback line considered by the Committee.

In the 2007 Appeal, the City also considered information about existing setbacks submitted by the Knight family. All of the existing structures, both primary and accessory, were measured from their front property lines, and the size of lots analyzed. As shown on Knight0023-30 (Exhibits 4, 5, 6 and 7 to the 2007 Appeal), simple setback

Planning Commission March 19, 2013 Page 5

averaging made a high percentage of lots non-conforming. Even dropping out the lots constrained by topography made seven of the lots non-conforming. Factoring in the size of lots, together with topography, met the above standards, and minimized non-conformity. See Knight0031-32 (Exhibit 8 to the 2007 Appeal). The preferred predominant line incorporated accessory structures within the setback lines in accordance with the City's definition of "development" and the general approach of the Committee. See Knight0033-34 (Exhibit 9 to the 2007 Appeal). The Knight Project is consistent with either of these predominant lines.

The "line of development" determined by the Planning Director on the 2007 Appeal was even more restrictive than the above lines, thus ensuring consistency with any future adoption. The primary line was set at 54'11' or at the same setback as the neighboring house to the south. The accessory line was set at the limit of the first terraced area on the property to the south, which is at the 54-foot contour line. This Determination allowed the residence to extend into Buck Gully by the same distance as the residence at 308 Hazel Drive, but required accessory structures to pull back to the north. It also reflected the larger size of the Lot, which has more developable area than most other Hazel Drive lots.

# The Previously Approved Line Of Development for the Knight Lot Is Consistent With Precedent

In the absence of adopted predominant lines of development for Buck Gully and Morning Canyon, the City has used a modified stringline approach to ensure consistency with potential future predominant lines of development. For instance, of 16 stringline projects made available for review, four were approved before Policy 4.3.3-18 was adopted and another three were submitted at the same time as the Knight Project. Of the total 16 projects, stringlines were exceeded or modified for site-specific reasons in at least 12 cases. On some lots, both the primary and accessory structures appear to exceed the designated stringline. In other cases, the nearest structural corner is not used or the connection is unclear. City Staff has also worked with the Evening Canyon homeowners association, which applies its own slightly different stringlines to homes on the east side of Buck Gully. Aerial photographs of the 16 lots are available upon request.

Even in situations where a predominant line of development is not adopted, the Coastal Commission has applied stringlines flexibly to reflect existing development patterns, site characteristics and equity. At 3 Canal Circle in Newport Beach, for instance, the Coastal Commission explained that "each development is reviewed on a case-by-case basis and while in this area stringline is typically used to prohibit encroachment toward the [Semeniuk] slough, in this instance the siting of the existing development already established the development pattern and the proposed project would not exacerbate an existing non-conformity. Thus, the development as proposed is consistent with the character of the surrounding area." Staff Report, p. 1, #5-10-254, October 28, 2010 (Item W4a), attached as Knight0041. At 168 West Avenida San Antonio in San Clemente, the Commission rejected a stringline that "would further restrict the size of the development footprint compared with adjacent pattern of development

Planning Commission March 19, 2013 Page 6

with no significant benefit of increased protection of coastal resources." Staff Report, pp. 10-11, #5-12-314, December 19, 2012 (Item W19g), attached as Knight0038-40.

#### Conclusion

For all of the above reasons, Ms. Knight requests reinstatement of the development line for 312 Hazel Drive previously determined by the Planning Director in 2008, or adoption of the predominant line of development shown at Knight0033-34 (Exhibit 9 of the 2007 Appeal).

Very truly yours,

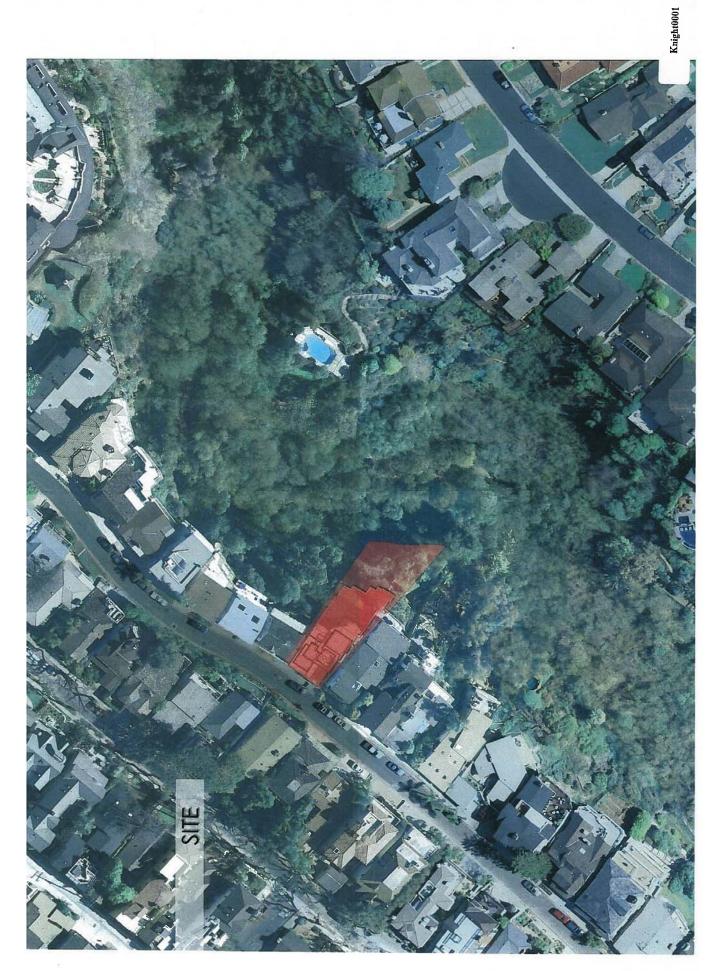
Deborah M. Rosenthal, AICP

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:408169837.2 Attachments

cc: Ms. Diane Knight

Ms. Kimberly Brandt, AICP Mr. James Campbell Ms. Makana Nova



### BINGHAM

Deborah M. Rosenthal, AICP Direct Phone: 714.830.0607 Direct Fax: 714.830.0727 deborah.rosenthal@bingham.com

October 5, 2007

#### Via FedEx

Mr. David Lepo Planning Director City of Newport Beach 3300 Newport Boulevard Newport Beach, CA 92663

Re: "Predominant Line of Development" for 312 Hazel Drive, Corona del Mar (Knight Appeal)

Dear David:

On behalf of Diane Knight and Erik Sobolewski (the "Applicants"), this letter expands on the information submitted to Patrick Alford during our meeting at your offices on September 18, 2007. We appreciate the opportunity to supplement and explain the maps and calculations we provided at that time in connection with the issue of "predominant line of development." As we discussed with Patrick, we hope to work with Staff to resolve the rear setback for 312 Hazel Drive (the "Knight Property") administratively.

In our most recent discussion with Patrick, he asked the Applicants to designate their preferred approach to determining the "predominant line of development" for their property. As discussed in detail below, the Applicants support the predominant line shown on the attached Exhibit 9 (see item 5 on page 7). It is a line drawn on the existing line of land disturbance in the rear yards of the majority of homes along Buck Gully. It has the advantage that it does not make any of the existing homes or accessory structures non-conforming, while complying with the City's visual resource and landform alteration goals.

#### **Factual Background**

The Knight Property is located inland on Buck Gully, approximately half-way between Ocean Boulevard and East Cost Highway. The existing house is a small, one-story single-family structure built in the 1940s. The rear of the property is not visible from the coast or any public roads to the south, and is barely visible from East Coast Highway located some distance to the north.

Original Purchase: The Applicants purchased the Property three years ago with the intention of expanding the existing house consistent with the size of their lot, one of the largest on Hazel Drive. They worked closed with Staff to prepare a site plan that would satisfy all of the setback and other requirements under the existing zoning. They explored the necessity for a special environmental setback through extensive discussions with Staff, and reached agreement that normal rear setbacks would apply at this location.

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Walnut Creek
Washington

Bingham McCutchen LLP Plaza Tower, 18th Floor 600 Anton Boulevard Costa Mesa, CA 92626-1924

> T 714.830.0600 F 714.830.0700 bingham.com

The Property is already subject to a 40' setback from the rear property line for environmental protection under an existing easement and the current zoning. All of the riparian habitat on the site is protected by the zoning setback. The developable portion of the Property, under the existing zoning, does not contain any sensitive habitats, flood plains or other vegetation. The development plan includes erosion and stormwater controls

Proposed Design: As revised in coordination with Planning Staff, the proposed home design minimizes grading impacts and respects existing topography by stepping down the property on four levels. Building floor plans are attached as Exhibit 1. The rear elevation of the residence is both compatible and consistent with the adjacent structures, and does not significantly affect either public or private views. Views of the proposed structure from East Coast Highway are shown on the visual simulation attached as Exhibit 2.

Surrounding Development: The Knight Property is the 15th house on the east side of Hazel Drive from its southern terminus. All 14 lots to the south have been improved with larger homes extending approximately equal distances into their rear yards. In addition to the main structures, many of these lots have extensive development in the rear yards, with retaining walls, free-standing structures and other significant improvements. Photographs of structures in the rear yards of the two houses immediately south of the Knight Property are attached as Exhibit 3.

Immediately north of the Knight Property are 5 or 6 smaller lots containing older cottages, which have not been remodeled. For the most part, these lots are considerably smaller than the Knight Property and have less buildable area. Although it is not visible from an aerial, these lots are also largely constrained by a steep drop-off into the canyon which physically precludes expansion into their rear yards. In effect, therefore, except for the Knight Property, all of the homes with usable rear yards on Hazel Drive have approximately equal rear development lines. The only exceptions are the homes on small lots located closer to a defined canyon edge immediately north of the Knight Property.

At approximately 5,000 square feet, Knight Property appears to be one of the largest residential lots on the west side of Buck Gully. In addition to its larger size, the Knight Property has a moderately sloping usable rear yard like the parcels to the south. Therefore, unlike the steeply sloping lots to the north, the Knight Property can support rear expansion without extensive grading. As noted above, the home is designed to fit the topography of the site consistent with the lots to the south, with minimal grading.

#### **Planning Context**

The Natural Resources Elements of the General Plan contains four goals relating to "Visual Resources." Goal NR 23 requires that: "Development respec[t] natural landforms such as coastal bluffs." Policy NR 23.6 relates to Canyon Development Standards:



"Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements."

Patrick Alford was involved in drafting this language. During our meeting, he explained that the "predominant line of development" was intended as the primary development control. The purpose of the stringline was to give the City flexibility to address site-specific situations where application of the predominant line would be impractical or unfair and to ensure that structures did not extend beyond the "predominant line of development."

"Predominant line of development" is defined at page 14-61 of the Newport Beach General Plan as:

"The most common or representative distance from a group of structures to a specific point or line (e.g. topographic line or geographic feature). For example, the predominant line of development for a block of homes on a coastal bluff (a specific group of structures) could be determined by calculating the median distance (a representative distance) these structures are from the bluff edge (a specified line).

Patrick also explained that there is no single formula for determining a "predominant line of development" because of differences in physical features and factual situations. The definition also gives the City flexibility in determining the number of structures in a "group" or "block" that are relevant to establishing a predominant line. According to the General Plan, the purpose of establishing a predominant line is to protect visual resources, which can also guide the City's decision-making.

"Development" is defined at page 14-45 of the General Plan as:

"The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance, and any use or extension of the use of land."

Under the General Plan, therefore, development is defined to include any area of land disturbance, such as terraces, decks, patios and accessory structures.



As stated in your letter of June 26, 2007, Ordinance No. 2007-3 establishes a set of criteria used to determine the consistency of certain residential projects with the General Plan, including the Natural Resources Element. Criterion No. 7 states:

"Site planning should follow the basic principle of designing development to fit the features of the site rather than altering the site to fit the design of the development. Whenever possible, altering natural features such as cliffs, canyons, bluffs, significant rock outcroppings, natural vegetation should be avoided or the extent of alteration minimized. Adequate buffers should be provided to protect significant or rare biological resources."

In addition to its stated purpose of protecting visual resources, the Planning Department has concluded that Policy NR 23.6 can be used to interpret and apply Criterion No. 7 to development along Buck Gully.

### **Determination of Predominant Line of Development**

After our meetings with you and Patrick Alford, the Applicants worked with their architect to collect information about surrounding development. They limited their analysis to seven existing houses to the south and eight houses to the north, for a total of 15. Although there are another seven houses further south on the west side of Buck Gully, they do not significantly differ in scale from the seven nearer homes.

The information collected by the Applicants showed the distance from the front lot line to the main rear elevation of the structure for each of the 15 homes in the analysis, based on building permit information and aerial photographs. Accessory development was also assessed, using aerials obtained from the City at a 1.5' resolution. The resulting development lines were calculated mathematically and drawn on the aerials using a CAD computer program.

With their architect, the Applicants evaluated the following potential approaches:

- 1. Mean Development Line/Current Development: Exhibit 4 shows the mean line of development obtained by totaling the rear elevation distances for all 15 primary structures and dividing by 15. The distances ranged from 23'1" for House 8 to 73'10" for House 15, resulting in a mean development line of 45'6" from the front lot line. Although simple to calculate, this approach was removed from further consideration for the following reasons:
  - (a) it would make 8 of the 15 homes (53%) non-conforming, depriving the property owners of the right to re-build in the event of catastrophic loss. If the additional 7 homes to the south had been included, an

- even higher percentage would have been non-conforming;
- (b) it would make the existing accessory improvements on most of the adjacent lots non-conforming, preventing any replacement or expansion;
- (c) it does not differentiate between moderately and steeply sloping yards, which require different amounts of grading and result in different visual impacts;
- (d) it imposes additional rear setbacks on private property without making any difference in the level of visual resource protection, as shown on Exhibit 2; and
- (e) it establishes a "predominant" line that is exceeded by more than half of the affected homes, which is not reasonable.
- 2. Mean Development Line/North and South: Exhibit 5 shows the mean lines of development separately for the properties north and south of the Knight Property. The mean setback line for the 7 properties south of the Knight Property is 51'3." The mean setback line for the 8 properties north of the Knight Property is 40'7." In effect, this approach resulted in grouping the homes along Buck Gully into two "blocks," based on lot size and topography. As explained above, the Knight Property is similar to the southern lots, both in size and topography. However, this approach was removed from further consideration for the following reasons:
  - (a) it would make 4 of the 7 homes (57%) to the south and 3 of the 8 (37%) homes to the north non-conforming, depriving the owners of all newer homes on the street of the right to re-build in the event of catastrophic loss;
  - (b) it would make the existing accessory improvements on most of the southerly lots non-conforming, preventing any replacement or expansion;
  - (c) it imposes additional rear setbacks on private property without making any difference in the level of visual resource protection, as shown on Exhibit 2; and
  - (d) it establishes a "predominant" line that is exceeded by more than half of the homes in the group, which is not reasonable.

- 3. Mean Development Line/Developed Sites Only: Exhibit 6 shows the mean line of development for all 10 of the fully developed sites, but excluding the smaller cottages to the north located closer to a steep canyon edge. The resulting mean setback line for the 10 developed sites is 52'11." This approach recognizes the topographic constraints applicable to the 5 smaller lots, but it was nonetheless removed from further consideration for the following reasons:
  - (a) it would make at least 3 of the 10 homes (30%) non-conforming, depriving the owners of the right to re-build in the event of catastrophic loss;
  - (b) it would make many of the existing accessory improvements on the southern lots non-conforming, preventing any replacement or expansion;
  - (c) it imposes additional rear setbacks on private property without making any difference in the level of visual resource protection, as shown on Exhibit 2; and
  - (d) it is not based on the actual amount of "development" on the lots because it is limited to the main structure only; and
  - (e) it treats structures on the east side of Buck Gully differently from those on the west side, which have a mean primary structure line of 62'8" from their front lot lines. See Exhibit 7.
- 4. Predominant Line/Primary Development: Exhibit 8 shows the predominant line that results from averaging the depths of homes on lots at least equal in size to the Knight Property. For the most part, it skims the existing rear elevations, with the major advantage that it would make only a small part of one home non-conforming. It is consistent with the majority of primary structures along Buck Gully, and recognizes existing lot sizes and topography. On the smaller lots, the canyon edge serves as a physical constraint that would effectively prevent development from extending to the predominant line; environmental setback requirements would add an additional level of protection at these locations. The Applicants can accept this approach because it is consistent with existing rear elevations and would not penalize owners of the larger homes in the event of catastrophic loss.

However, the Primary Development approach does not truly reflect the actual amount of "development" along Buck Gully. As noted above, the General Plan defines development to include any area of land disturbance. In this case, most of the homes along Buck Gully include extensive improvements extending a substantial distance into their rear yards. For instance, the parcel immediately south of the Knight Property is terraced, with permanent retaining walls, paving and other structures. The next property has a free-standing accessory structure located some additional distance from the main



structure, with a terraced slope. *See* Exhibit 3. If these improvements are considered "development," in accordance with the General Plan glossary, they would be non-conforming for the purposes of future replacement.

In terms of visual impact, there is no significant difference between the lower levels of the proposed Knight home and the retaining walls and structures on adjacent property. All of them are screened from view by topography and vegetation. In terms of landform alteration, there is no significant difference between the grading required for the proposed Knight home and the paved terraces and retaining walls on adjacent property. Both of them require grading, but follow the natural landforms. For this reason, the Applicants believe that the Primary Development approach is more restrictive than necessary under the General Plan.

5. Primary Line/Accessory Development: Exhibit 9 shows the predominant line that results from following the actual line of ground disturbance in the rear yards of the 15 homes along Buck Gully. The Applicants believe this line is appropriate because it is consistent with both the visual resource goal of the General Plan and the landform protection goal of Ordinance No. 2007-3. The Applicants therefore support this approach because it allows the same amount of land disturbance, i.e. "development," on their property as on other properties along the east side of Buck Gully.

We appreciate the opportunity to explain the various approaches analyzed by the Applicants and the reasons they support a "predominant line of development" that is consistent with the goals and definitions of the General Plan. We are available to discuss this information with you at your earliest convenience, and to answer any questions you may have about how the exhibits were created.

Thank you for the close attention you and Patrick have given this matter.

Very truly yours,

Deborah M. Rosenthal, AICP

**Enclosures** 

cc: Mr. Patrick Alford

Mr. Erik Sobolewski Ms. Diane Knight



# Fed Ex.

package id 0112757 ship date

return label

Fri, Oct 05

to

David Lepo
City of Newport Beach
3300 Newport Blvd
Newport Beach , CA 926633816 US
949-644-3228
dlepo@city.newport-beach.ca.us
residential address
No

notification type
Delivery
notification recipients
lynn.pauley@bingham.com

from
Deborah M. Rosenthal (34332)
Bingham McCutchen LLP
600 Anton Boulevard
18th Floor
Costa Mesa , CA 92626 US

billing
Sobolewski Eric and Knight
Dia...Diane.Development of
312 Hazel Drive

714-830-0607

operator
Lynn Pauley
714.830.0665
lynn.pauley@bingham.com
create time
10/05/07, 4:19PM

(3006737.0000326895)

*vendor* FedEx

tracking number 791405477307

service FedEx Priority packaging FedEx Pak dimensions 2.0 LBS

signature Adult signature - at address

options

Insurance on declared value of 1.00

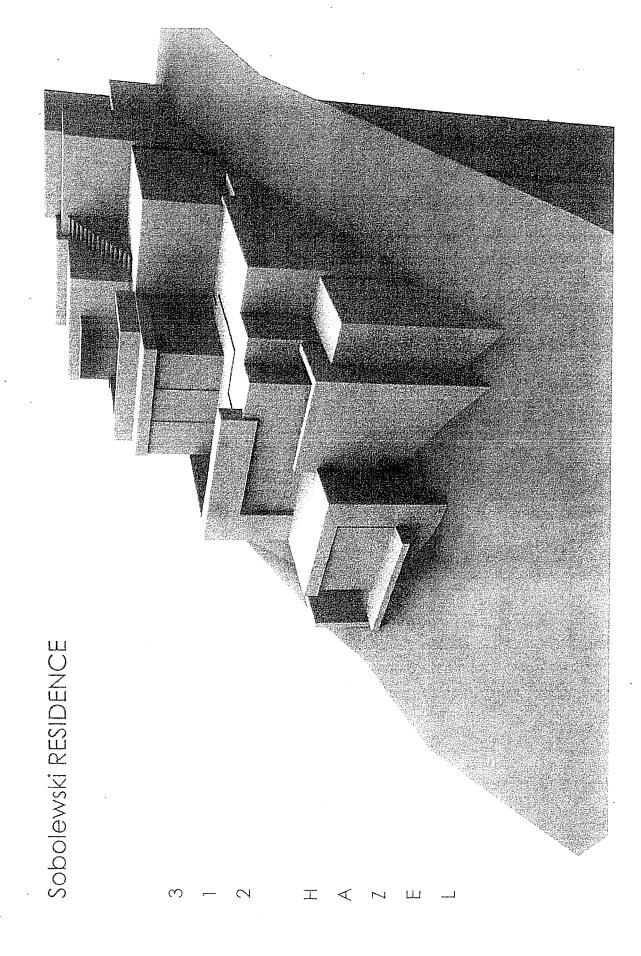
courtesy quote 14.49

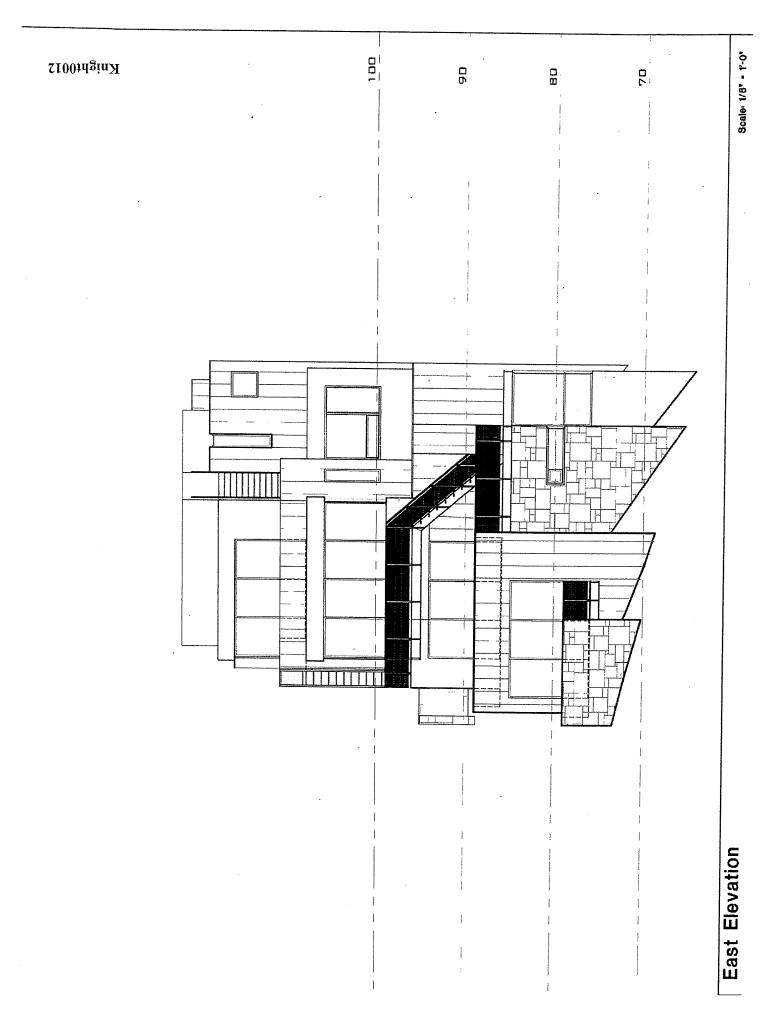
The courtesy quote does not reflect fuel surcharge and does not necessarily reflect all accessorial charges.

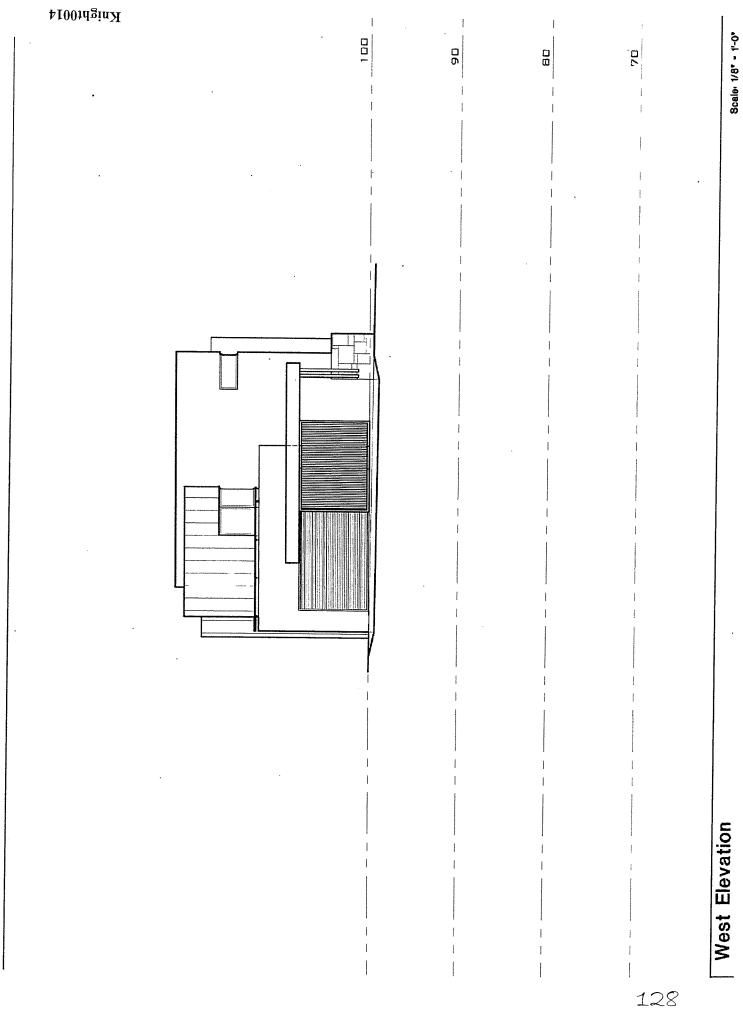
#### Legal Terms and Conditions

Tendering packages by using this system constitutes your agreement to the service conditions for the transportation of your shipments as found in the applicable FedEx Service Guide, available upon request. FedEx will not be responsible for any claim in excess of the applicable declared value, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the applicable FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of 100 USD or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is 500 USD, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see applicable FedEx Service Guide. FedEx will not be liable for loss or damage to prohibited items in any event or for your acts or omissions, including, without limitation, improper or insufficient packaging, securing, marking or addressing, or the acts or omissions of the recipient or anyone else with an interest in the package. See the applicable FedEx Service Guide for complete terms and conditions. To obtain information regarding how to file a claim or to obtain a Service Guide, please call 1-800-GO-FEDEX (1-800-463-3339).

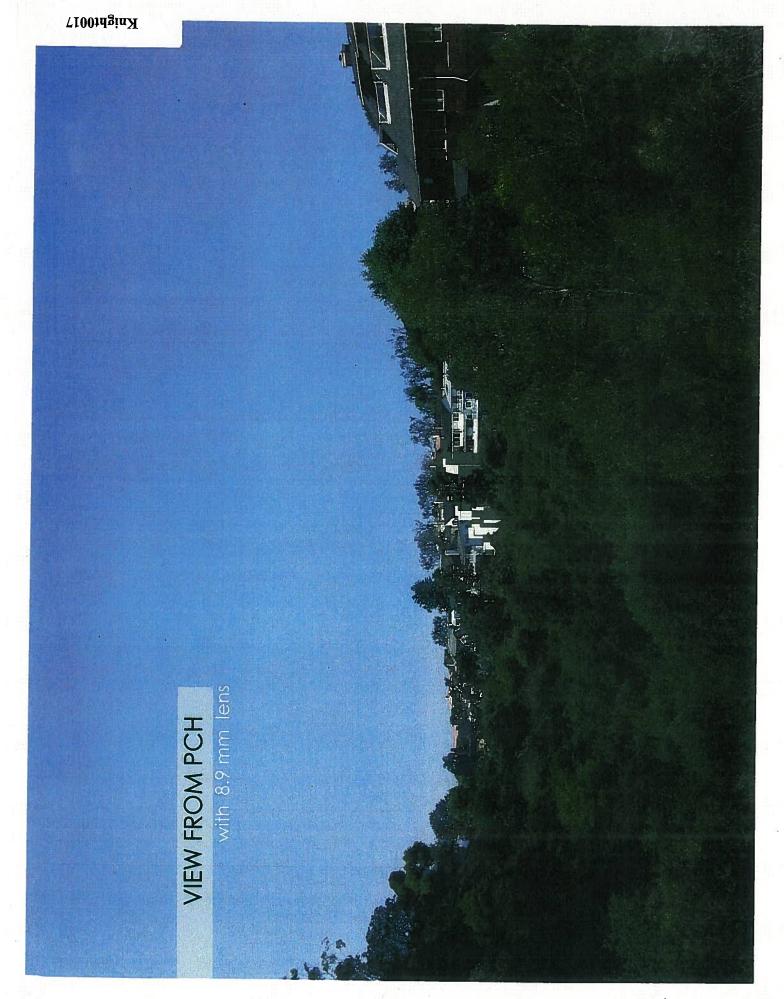
©2003-2007 Lynch Marks LLC. All rights reserved. PS|Ship™ is a trademark of Lynch Marks LLC. Other product and company names listed are trademarks or trade names of their respective companies.

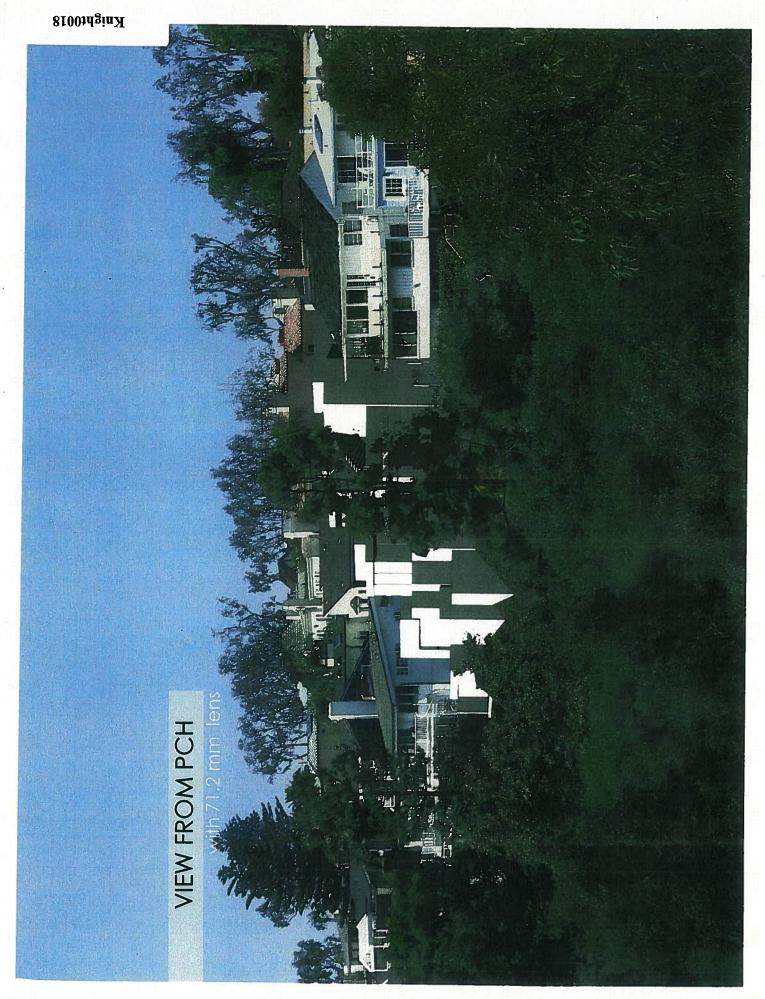






Scale: 1/8" = 1'-0"

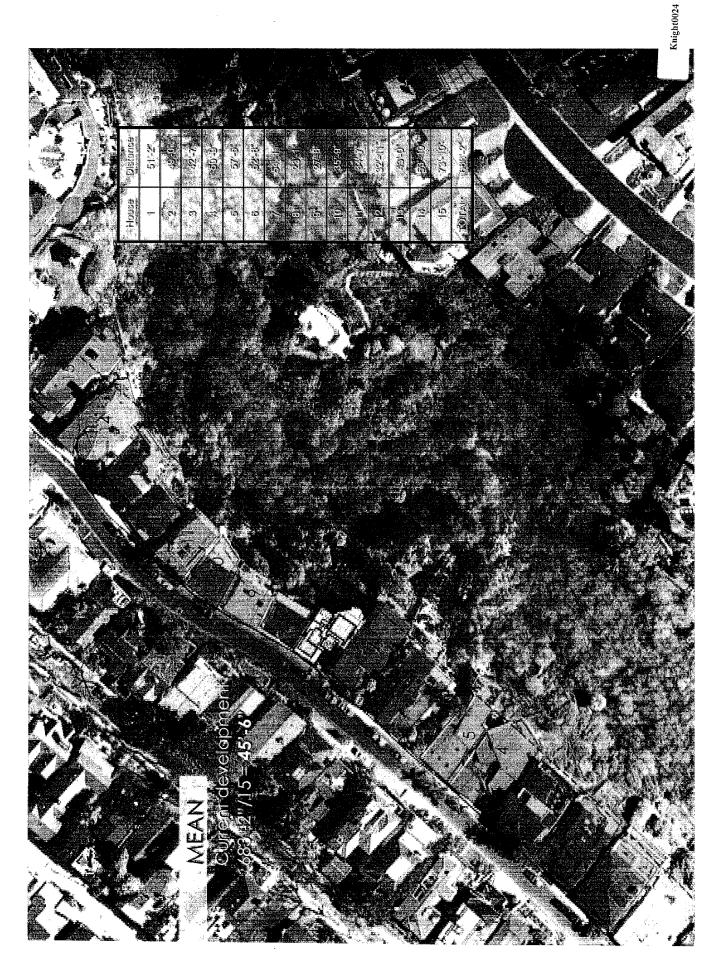


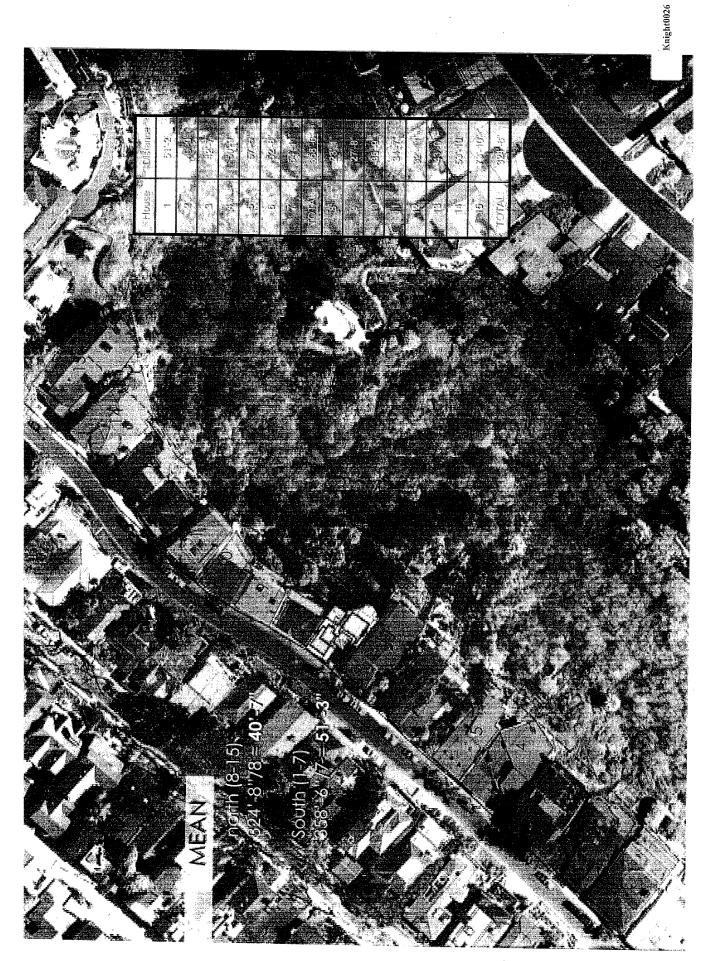


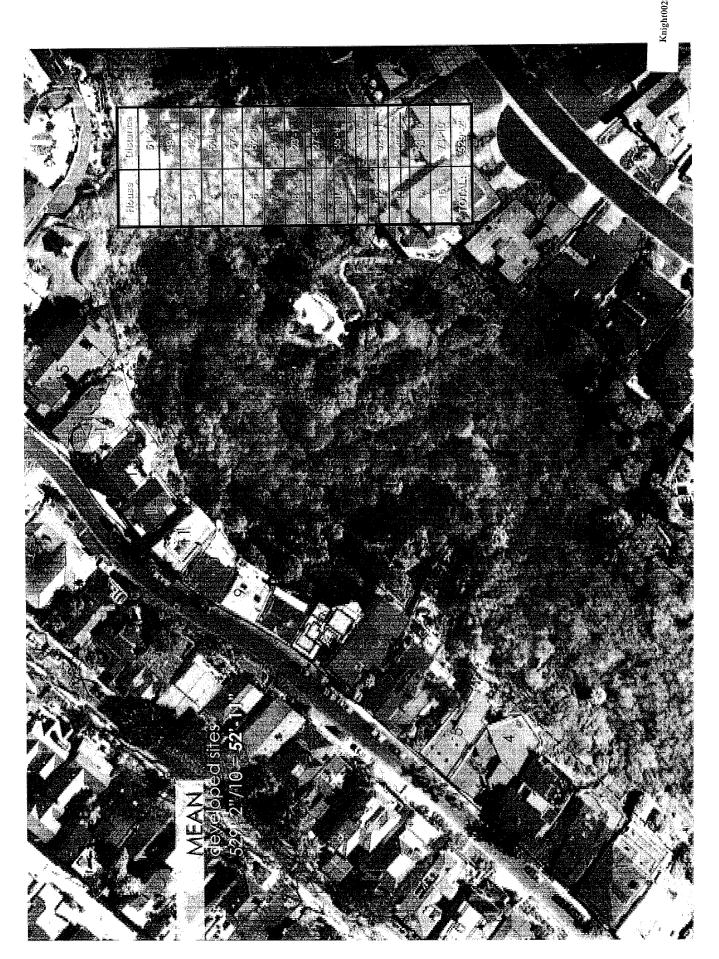




















### **Appeal Application**

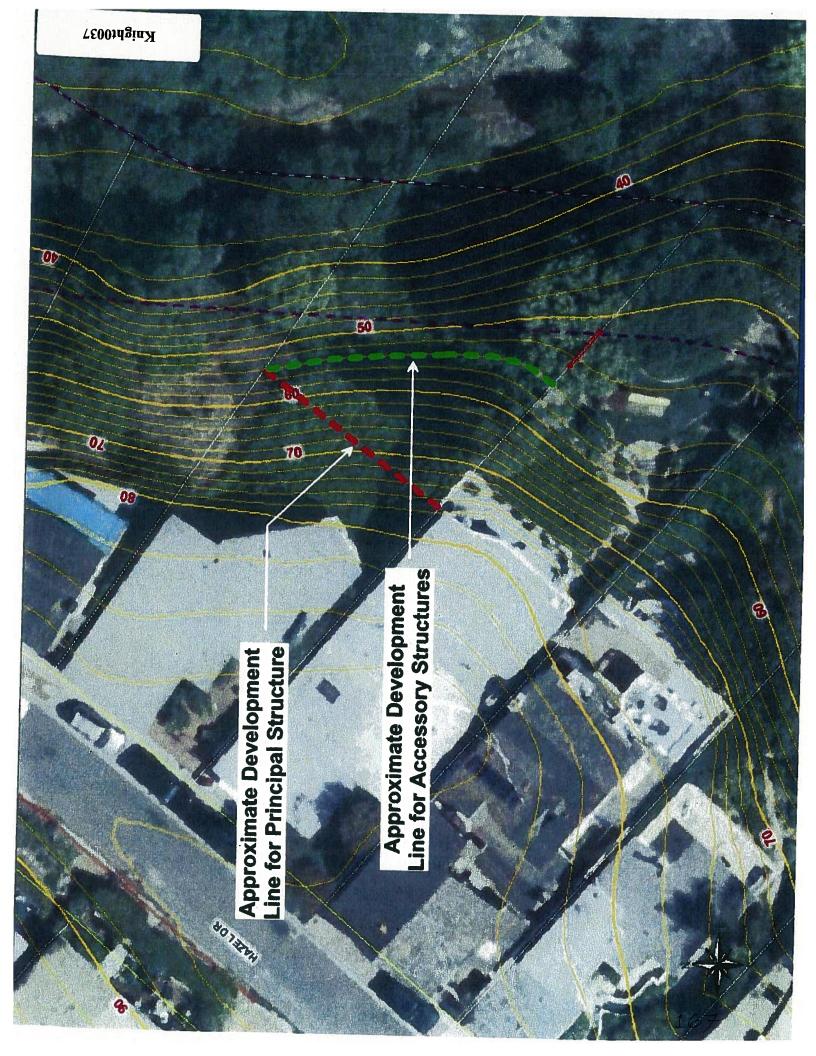
Community Development Department Planning Division 3300 Newport Boulevard, Newport Beach, CA 92663 (949)644-3204 Telephone I (949)644-3229 Facsimile www.newportbeachca.gov

| For Office Use Only |  |  |  |
|---------------------|--|--|--|
| Date Appeal Filed:  |  |  |  |
| Fee Received:       |  |  |  |
| Received by:        |  |  |  |

| LIFORN  | www.newportbeachca.gov      | 949)644-3229 Facsimile   | Received by:       |  |
|---|-----------------------------|--|--------------------|--|
|   | peal the decision of the:   | <ul><li>☐ Zoning Administrator</li><li>☐ Planning Director</li><li>☐ Hearing Officer</li></ul> |                    |  |
| Appellant Information                         |                             | • 1  |                    |  |
|   | Diane Knia                  |  |                    |  |
|   | 312 Hazel                   |  |                    |  |
| City/State/Zi                                 | p: Corona Del               | Mar, CA  | 92625              |  |
| Phone. <u>7/4</u>                             | 3370288 Fax: 9              |  | diane Cline-up-com |  |
| Appealing Applica                             | tion Regarding:             |  | •                  |  |
| Name of App                                   | licant: Diane Knia          | LLT Date of Decision   | on: 2-15-13        |  |
| Project No. (PA): PA 2013 - 043 Activity No.: |                             |  |                    |  |
| Site Address:                                 | 312 Hazel                   | Dr CDM C   | A                  |  |
|   | Joining appeal              |  |                    |  |
|   |                             |  |                    |  |
| Reason(s) for Appe                            | eal (attach a separate shee | et if necessary):  |                    |  |
| Justica                                       | ation on separ              | rate sheet   |                    |  |
|   |                             |  |                    |  |
|   |                             |  |                    |  |
|   |                             |  |                    |  |
| Along with applicat                           | ion, please submit the fo   | ollowing:  |                    |  |
| Twelve (12) 11x1                              | 7 sets of the project plans |  |                    |  |
| excluding intervel                            | ning right-of-ways and wat  | erways, of the subject site.   |                    |  |
| Signature of Appell                           | ant: <u>Sam</u> F           | night Date:  | 2-28-13            |  |

#### Knight Appeal

"Staff's determination of the predominant lines of existing development is arbitrary, unnecessarily restrictive, and contrary to the previously established predominant lines of existing development. Among other things, the development setback established by the Planning Director: (1) is inconsistent with the definition of "predominant line of development" adopted by the City; (2) is inconsistent with the predominant line of development previously applied to the property; (3) deprives the property owner of rights enjoyed by adjoining property owners; and (4) arbitrarily restricts development of the Knight property based solely on the size of a single adjacent structure."



#### CALIFORNIA COASTAL COMMISSION

South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302 (562) 590-5071



Filed:

180th Day:

Staff:

6/16/13 L. Roman-LB

Staff Report:

1/17/13

12/19/12

Hearing Date:

2/6/13

#### STAFF REPORT: REGULAR CALENDAR

Application No.:

5-12-314

Applicant:

Kim and Karen Markuson

**Project Location:** 

168 West Avenida San Antonio, San Clemente,

Orange County

**Project Description:** 

Demolition of an existing 1,268 sq. ft. single story

residence with attached 262 sq. ft. garage and rear wood deck and construction of a new 1,922 sq. ft. two-story, single family residence with a 290 sq. ft. second story balcony deck, attached 390 sq. ft. garage and 300 sq. ft. basement level, retaining walls, landscaping, and 230 cu.

yds. of grading on a canyon lot

Staff Recommendation:

Approval with conditions.

#### SUMMARY OF STAFF RECOMMENDATION

The subject application requests approval for demolition of an existing 1,268 sq. ft. one story single family residence with attached 400 sq. ft. garage and rear wood deck and construction of a new two-story, 25' high, 1,922 sq. ft. two-story, single family residence with a 290 sq. ft. second story balcony deck, plus an attached 390 sq. ft. garage and 300 sq. ft. basement level, deepened footing foundation, retaining walls, fencing, and landscaping (Exhibit #2). Grading will consist of approximately 230 cu. yds. of cut to create the proposed basement storage level.



The certified LUP identifies three canyon setback choices which are to be selected based upon 'site characteristics'. There are seven canyons identified in the LUP and these setback choices exist because conditions from canyon to canyon, and within each canyon, are highly variable. Each canyon has a different shape, width and depth. The degree of existing disturbance within each canyon is also different. The land uses, density and intensity of development also vary. Public views of the canyons vary from point to point. The lots along and in these canyons vary with regard to lot size and shape. The topography of each lot can be highly variable, where in some cases there are canyon-top areas to site structures, there are other lots comprised mostly of canyon slope and canyon bottom. The pattern of existing development along the canyon changes from place to place. Another site characteristic that changes is presence or absence of native vegetation and/or a stream on the lot. Considering these site characteristics, a setback must be chosen that achieves habitat protection and enhancement, minimizes visual impacts and landform alteration, and avoids cumulative adverse impacts of the encroachment of structures into the canyon. Finally, sometimes equity is a consideration (i.e. size of development footprint available under each setback scenario compared with adjacent development) and a stringline approach to siting is adopted for particular projects so long as the stringline setback doesn't impact other coastal resources (i.e., geologic stability, habitat protection, etc.).

A coastal canyon setback utilizing option "a" in the City's LUP Chapter 3, Section 302 G, policy VII.15, would considerably minimize the site's buildable area after consideration of all other setbacks. The canyon edge (i.e., uppermost break in slope) was identified at approximately the 149' contour line by staff geologist Dr. Mark Johnsson on a site visit in March 2012. The existing structure is setback approximately 10' from the canyon edge. Setback option "a" would require a minimum 15' setback from the canyon edge for the new development. The existing homes along this segment of West Avenida San Antonio are roughly in alignment with one another on the canyon side of the lot. If the 15' setback from canyon edge was used in this case, the new residence would be further landward than all of the other homes along this segment. Thus, it would not be consistent with the existing pattern of development.

While there is a mixture of native and non-native vegetation on the subject site, vegetation on the lot is predominately ornamental along the top of canyon including fruit trees. As there is no riparian vegetation or a discernible line of coastal sage scrub vegetation, setback option "b" is not useful in this case.

The proposed project should be sufficiently set back to be consistent with the pattern of development in the surrounding area, to protect habitat and avoid frustration of future canyon habitat enhancement efforts by avoiding encroachment into the canyon (both individually and cumulatively). The applicant has designed the project to meet the stringline setback; setback option "c" of the certified LUP. Staff agrees that the use of a stringline setback would adequately protect coastal resources. However, the stringline was not correctly drawn on the submitted plans. A correctly applied stringline which is a line "drawn between the nearest corners of the adjacent structures" would result in a loss of approximately 4' of buildable area between the front and rear setbacks on the property resulting in approximately 42' depth of lot of buildable area. The applicant has already received a variance from the City to exceed the front yard setback. No such variance exists for canyon setback. The correctly drawn stringline setback would further restrict the size of the development footprint compared with adjacent



pattern of development with no significant benefit of increased protection of coastal resources. Therefore, considering the specific site characteristics, and the fact that the applicant proposes to remove existing non-conforming development in the canyon, and to improve the canyon habitat by removing non-natives and planting natives, staff recommends that the proposed new residential structure not encroach further toward the coastal canyon than the existing pre-Coastal Act residential structure. The existing single family residence mimics the stringline setback, only protruding 2' past the stringline on a 14' long wall along the southern corner facing the canyon and is compatible with the surrounding pattern of development. Special Condition #1 requires the applicant to submit revised plans to pull the proposed structure back a few feet from the canyon edge so that the setback of the new structure on the canyonward side of the lot maintains the same footprint as the existing pre-Coastal Act residence ensuring the new structure does not encroach further into the canyon. Furthermore, the applicant proposes, and Special Condition #1 ensures, the removal of unpermitted development in the canyon to protect habitat and avoid frustration of future canyon habitat enhancement efforts by avoiding encroachment into the canyon.

#### Landscaping

San Clemente's certified LUP advocates the preservation of native vegetation and discourages the introduction of non-native vegetation in coastal canyons. Rare or endangered species have been documented to exist within the relatively undisturbed Marblehead coastal canyons of San Clemente. However, the City has designated all coastal canyons, including Los Lobos Marinos Canyon, as environmentally sensitive habitat areas (ESHA), as depicted in Exhibit #4. The coastal canyons act as open space and potential wildlife habitat, as well as corridors for native fauna. Decreases in the amount of native vegetation due to displacement by non-native vegetation have resulted in cumulative adverse impacts upon the habitat value of the canyons. As such, the quality of canyon habitat must be assessed on a site-by-site basis.

The canyon adjacent to the subject site is considered somewhat degraded due to previous grading (cut/fill) forming terraces on the canyon face and the presence of both native and non-native plant species. No portion of the area on the subject site that is proposed to be graded or otherwise developed with structures contains resources that rise to the level of ESHA. However, to decrease the potential for canyon instability, deep-rooted, low water use plants, preferably native to coastal Orange County should be selected for general landscaping purposes in order to minimize irrigation requirements and saturation of underlying soils. Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the canyon slope. Drought resistant plantings and minimal irrigation encourage root penetration that increases slope stability. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" (a.k.a. WUCOLS) prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf

Additionally, since the proposed development is adjacent to a coastal canyon, designated as ESHA by the City, the the protection and enhancement of habitat values is sought, and therefore the placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants

#### CALIFORNIA COASTAL COMMISSION

South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302 (562) 590-5071

W 4a

Filed: 49th Day:

October 28, 2010 December 16, 2010

180th Day: Staff: August 20, 2007 Fernie Sy-LB

Staff Report: Dece Hearing Date: Janu

December 22, 2010 January 12-14, 2011

Commission Action:

### STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER:

5-10-254

**APPLICANTS:** 

Sean & Julie Pence

AGENT:

Eric Aust

PROJECT LOCATION:

3 Canal Circle, City of Newport Beach (County of Orange)

**PROJECT DESCRIPTION:** Remodel and addition of an existing two-story, 2,454 square foot single-family residence with an attached 484 square foot two-car garage located on a water front parcel (Semeniuk Slough). Post project the two-story, single-family residence will be 2,980 square feet with an attached 451 square foot two-car garage. No grading is proposed

#### SUMMARY OF STAFF RECOMMENDATION:

The applicants are proposing the remodel and addition of an existing two-story single-family residence located on a water front parcel. The major issue of this staff report concerns waterfront development that could be affected by flooding and erosion during extreme storm events and development adjacent to a wetland (Semeniuk Slough). Typically in this area of Newport Beach, stringline is used in order to avoid encroachment of development on the slough. In this case, portions of the proposed additions do not adhere to the "accessory structure stringline" and the "principal structure stringline". However, impacts caused by these encroachments and the condition of existing development must also be considered. Significant portions of the existing "principal structure" and "accessory structure" already encroach further toward the slough and past the applicable stringlines. However, the proposed "structural" and accessory" additions do not encroach further toward the slough than the existing development. So while portions of the proposed additions do not adhere to the applicable stringlines, the project is still compatible to its surroundings in that they do not encroach any more toward the slough than existing development. Each development is reviewed on a case by case basis and while in this area stringline is typically used to prohibit encroachment toward the slough, in this instance the siting of the existing development already establishes the development pattern and the proposed project would not exacerbate an existing non-conformity. Thus, the development as proposed is consistent with the character of the surrounding area.

Commission staff is recommending <u>APPROVAL</u> of the proposed project subject to <u>ELEVEN (11)</u> <u>SPECIAL CONDITIONS</u> requiring: 1) an assumption-of-risk agreement; 2) no future shoreline protective device agreement; 3) future development agreement; 4) submittal of foundation plans; 5) conformance with submitted project plans identifying the unpermitted rear patio deck and planter, steps leading to the slough, a small boat dock, and a large boat dock located in the ACOE property; 6) conformance with submitted construction staging area(s) and construction corridor(s) plans; 7) conformance with certain requirements related to the storage and management of construction debris and equipment; 8) conformance with drainage and run-off control plans; 9) submittal of revised landscape plans; 10) adherence to requirements for exterior lighting adjacent



#### AGENDA

# General Plan/LCP Implementation Committee April 15, 2009 3:30 p.m. City Council Chambers

1. Approve Action Minutes from March 25, 2009 Attachment No. 1

3:30-3:35pm

- 2. Draft Zoning Code Review
  - A. Adult Business Regulations, Section 20.60.020 Update from staff
  - B. Performance Guarantees (Revised), Section 20.68.060 Provide comments on revised regulations (attached)
  - C. Recovery of Costs (Revised), Section 20.82.060 Provide comments on revised regulations (attached)
  - D. Environmental Study Areas Update from staff
  - E. Canyon Development Standards Review revised standards and provide comments on regulations and exhibits (attached)
  - F. Revised Zoning Code Schedule Provide comments to staff on revised schedule.(attached)

Attachment No. 2

3:35-5:45pm

3. Items for Future Agenda

5:45-5:50pm

4. Public Comments on non-agenda items

5:50-6:00pm

5. Adjourn to April 29, 2009, 3:30 p.m.

#### Attachments:

- 1. Draft action minutes from March 25, 2009
- 2. Draft Zoning Code Review support material



#### NPB-MAJ-1-04 City of Newport Beach LUP Update

existing development in the subject area. Accessory improvements are subject to analogous restrictions through Suggested Modifications 129 and 130. It is made clear that all of these bluff setbacks shall be increased where necessary to ensure safety and stability of the development. Additionally, Suggested Modification 133 requires swimming pools located on bluff properties to incorporate leak prevention and detection measures.

Suggested Modification 122 clarifies that only private development on Ocean Boulevard determined to be consistent with the predominant line of development and necessary public improvements will be allowed on bluff faces. Any further alteration of bluff faces will be prohibited. The Commission makes these modifications to ensure stability and protect coastal views, while recognizing past alteration and development patterns in the City. It is not necessary or appropriate to distinguish between altered and unaltered bluffs or to say that bluffs are no longer considered "coastal bluffs" because they have been significantly graded.

As modified, the policies allow development to occur in much the same manner it currently does in infill areas. Suggested Modification 132 maintains approved bluff edge setbacks for the coastal bluffs within the planned communities of Castaways, Eastbluff, Park Newport, Newporter North (Harbor Cove), and Bayview Landing. Suggested Modification 120 requires more stringent public access/setback requirements for new planned communities.

Development that currently exists on the bluff face on Ocean Boulevard will be allowed to continue in accordance with the predominant line of development if deemed geologically feasible, as addressed in Suggested Modification 131. Similarly, Suggested Modification 125 specifies that the bluffs along Bayside Drive that have been cut and filled by the Irvine Terrace and Promontory Point development will be subject to the setback restrictions established for bluffs not subject to marine erosion. As such, the "predominant line of development" standard will apply there.

Coastal canyon development will be regulated in much the same way. Where there was previously no setback for development on canyon lots, there is now a requirement to comply with the "predominant line of development." Suggested Modification 134 provides this new standard for development along Buck Gully and Morning Canyon. The addition of a canyon setback regulation in these areas will prevent significant landform alteration and limit encroachment into natural habitats.

As modified, more conservative setback standards would be applied to potentially hazardous lots, thereby providing better assurance of long-term stability. When development is properly sited, the need for construction of protective devices to support new development is avoided. Therefore, the Suggested Modifications ensure conformance with Sections 30253 and 30251 of the Coastal Act.

Page: 80

Go. gle

To see all the details that are visible on the screen, use the "Print" link next to the map.

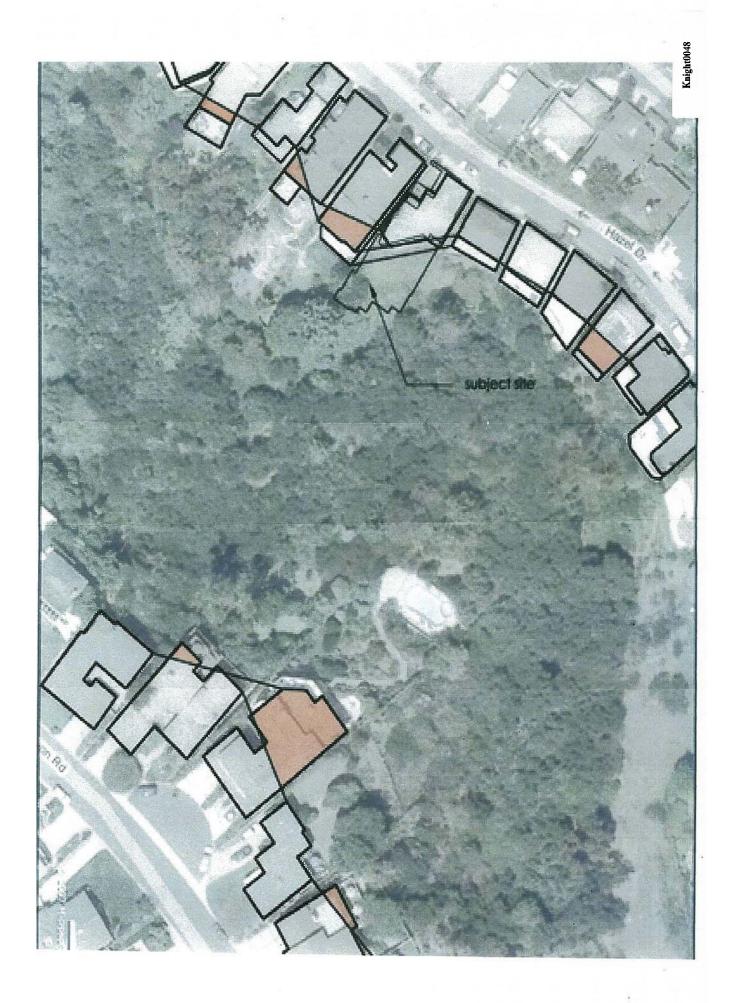


Go. gle

To see all the details that are visible on the screen, use the "Print" link next to the map.







-----Original Message-----From: Alford, Patrick To: Rosenthal, Deborah M. Sent: Fri Nov 02 11:05:52 2007

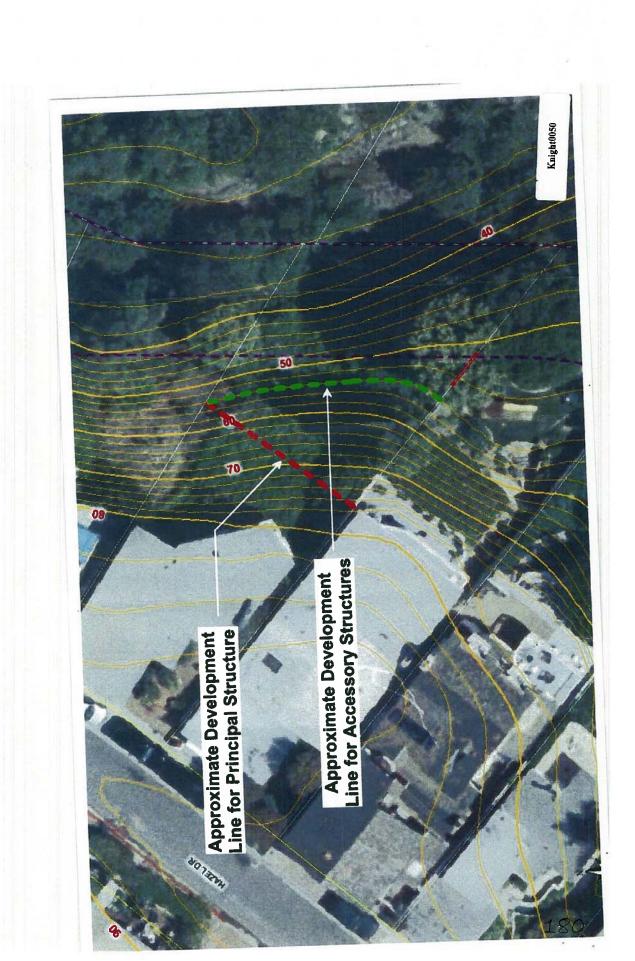
Subject: 312 Hazel

<<Glacier Bkgrd.jpg>> <<li>line of development.jpg>> Deborah,

David is prepared to find that if the new principal structure does not extend beyond principal structure located at 308 Hazel Drive and steps down the slope as depicted in the simulation in your October 19, 2007 letter, the development will be consistent with Criterion No. 7. As for the proposed accessory structures, David believes that if these improvements are terraced as depicted in the simulation and do not extend further down the slope than the first terraced area on the 308 Hazel Drive property, which is within the 54-foot contour line, the development will be consistent with Criterion No. 7: The attached exhibit depicts the approximate line of development for the principal structure and for accessory structures.

If your clients are in agreement, we will send you a letter containing this interpretation.

Patrick J. Alford Senior Planner City of Newport Beach Planning Department 3300 Newport Blvd. Newport Beach, CA 92663 (949) 644-3235 (Voice) (949) 644-3229 (Fax)





CITY OF NEWPORT BEACHECETTEL

January 10, 2008

Deborah M. Rosenthal Bingham McCutchen LLP 600 Anton Boulevard | Suite 1800 Costa Mesa. CA 92626

RE: 312 Hazel Drive

Dear Ms. Rosenthal,

Thank you for you assistance in establishing development parameters for the proposed development at 312 Hazel Drive. As you know, Ordinance No. 2007-3 established procedures for the implementation of the General Plan during the interim period while the Zoning Code and other ordinances and regulations are being updated. Criterion No. 7 states:

Site planning should follow the basic principle of designing development to fit the features of the site rather than altering the site to fit the design of the development. Whenever possible, altering natural features such as cliffs, canyons, bluffs, significant rock outcroppings, natural vegetation should be avoided or the extent of alternation minimized. Adequate buffers should be provided to protect significant or rare biological resources.

After reviewing your exhibits, I have concluded that if the new principal structure does not extend beyond principal structure located at 308 Hazel Drive and steps down the slope as depicted in the simulation in your October 19, 2007 letter, the development will be consistent with Criterion No. 7. As for the proposed accessory structures, if these improvements are terraced as depicted in the simulation and do not extend further down the slope than the first terraced area on the 308 Hazel Drive property, which is within the 54-foot contour line, the development will be consistent with Criterion No. 7. The attached exhibit depicts the approximate line of development for the principal structure and for accessory structures.

Please note that is for purposes of interpreting Criterion No. 7 of Ordinance No. 2007-3 only. This interim ordinance will expire when the new Zoning Code is adopted. New building permit applications will have to comply with the property development regulations contained in the new Zoning Code. At this time, it is estimated that the new Zoning Code will be adopted sometime around mid-year 2008.

312 Hazel Drive January 10, 2008 Page 2 of 2

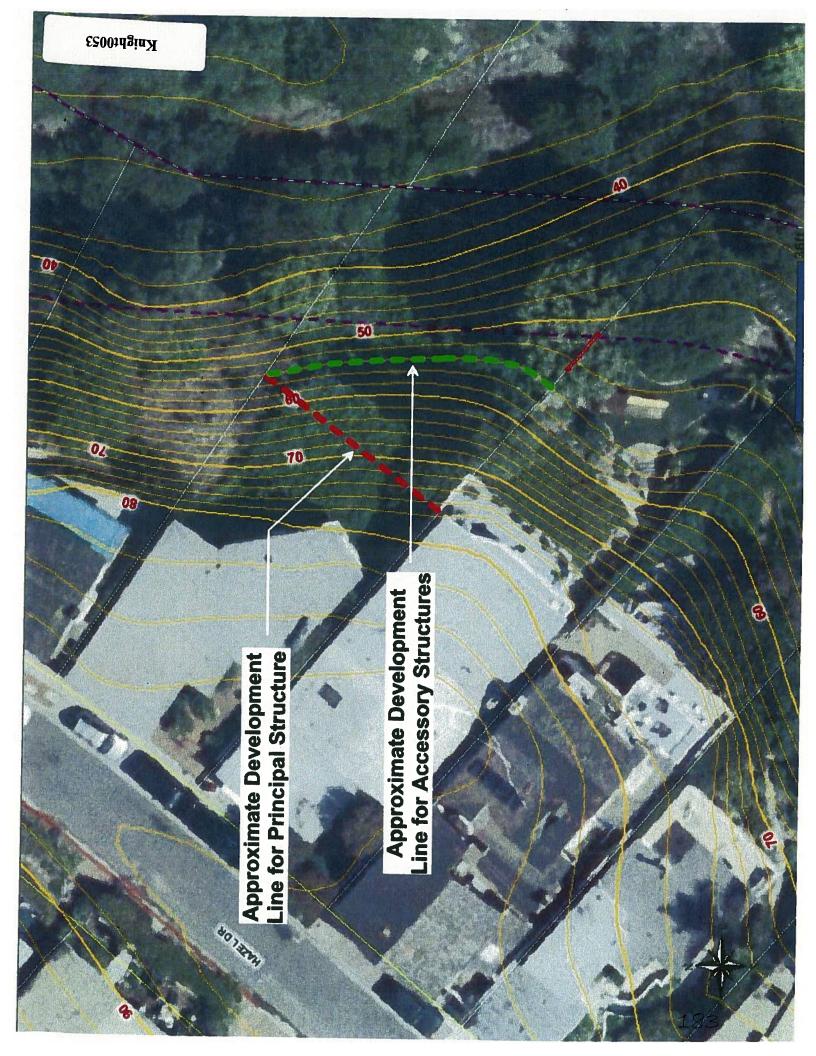
This interpretation was prompted by new direction provided to staff from members of the General Plan/LCP Implementation Committee. It involved policy issues other than those raised in your client's appeal. Therefore, I believe that it is appropriate to refund the \$600.00 filing fee, should your client choose to withdraw the appeal.

As to your request regarding compliance with other City requirements, our ability to perform an analysis was limited as we were only given a partial set of conceptual plans that were not drawn to scale. However, we did route the conceptual plans to other City departments for comments. Copies of their comments are attached and I hope that you find them useful.

Sincerely,

David Lepo

Planning Director





### Newport Beach Fire Department Fire Prevention Division 3300 Newport Blvd. Newport Beach, CA 92663 (949) 644-3106

## Planning Commission Project Review Conditions for Approval

DATE:

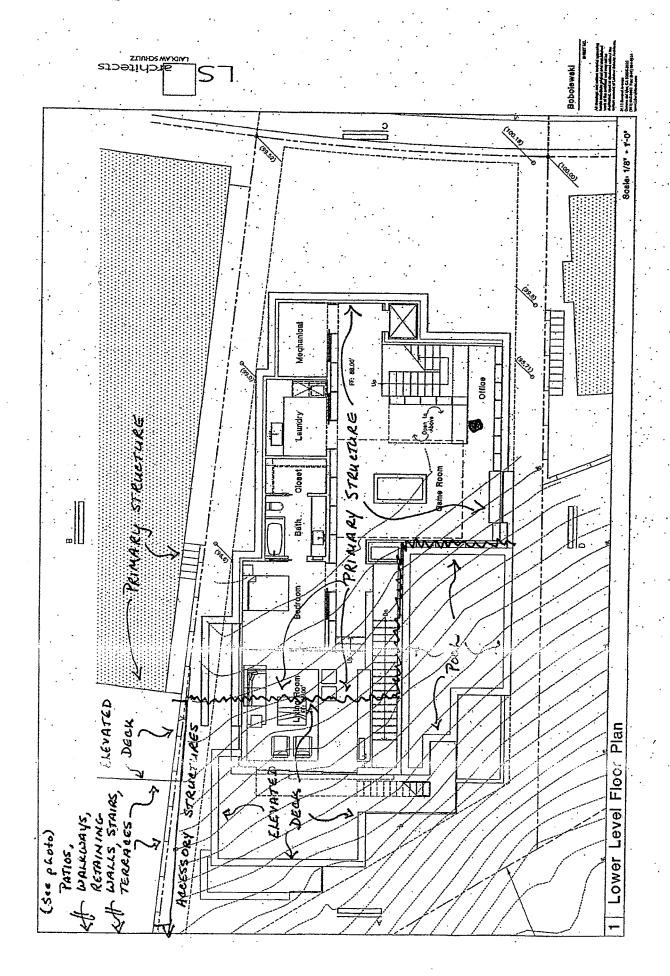
December 13, 2007

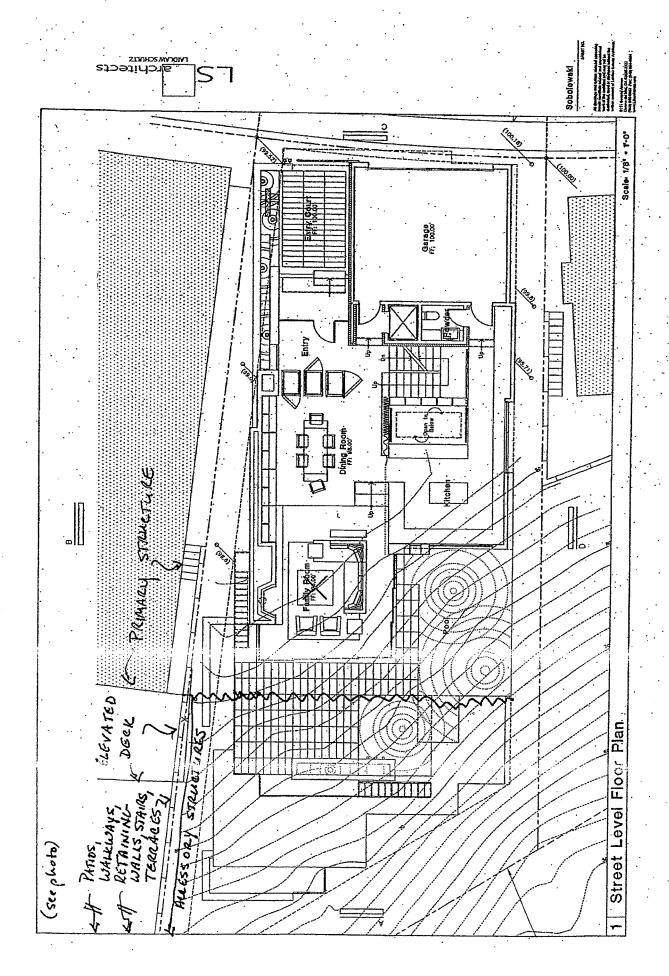
PROJECT LOCATION:

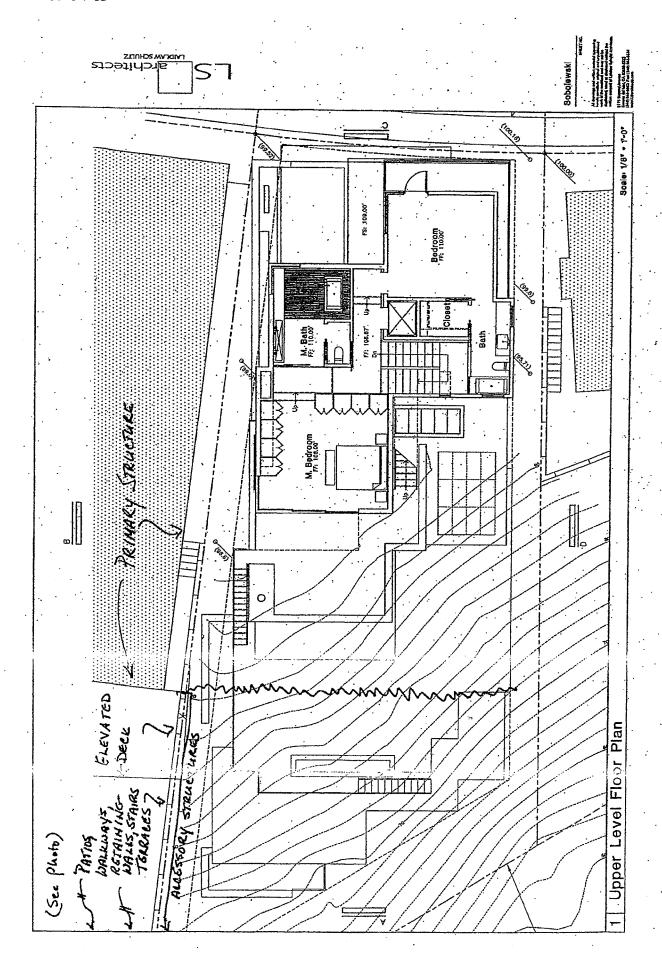
312 Hazel Drive

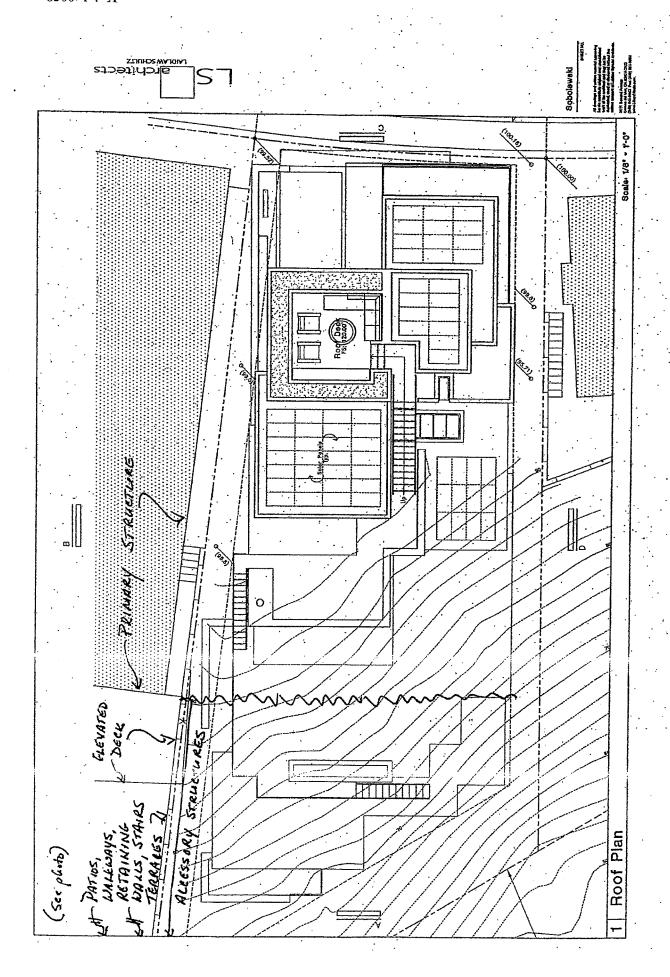
#### Conditions:

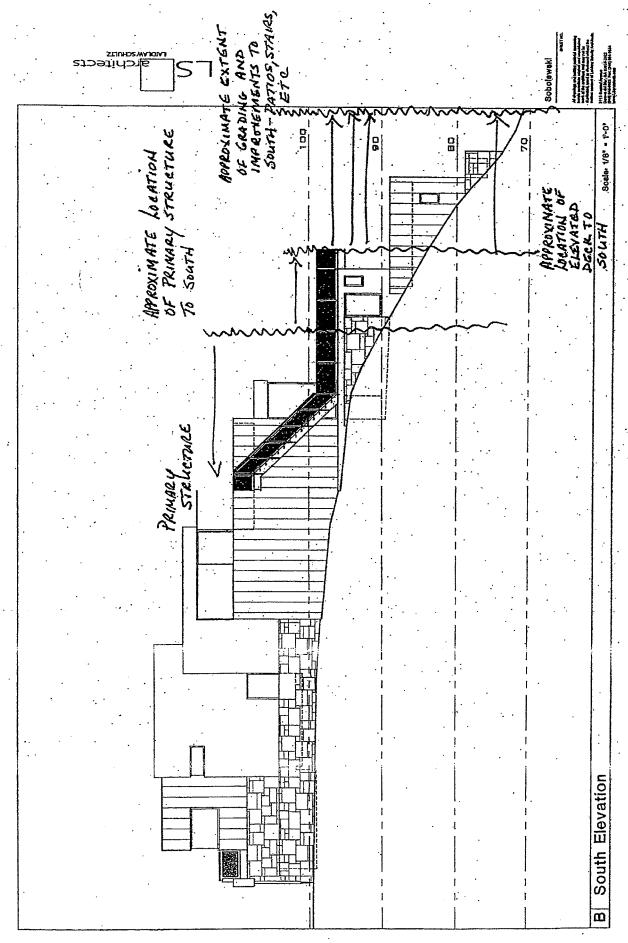
1. Building is located adjacent a special fire protection area. Property will require a fuel modification plan and meet construction requirements in accordance with amended Chapter 7A of the 2007 California Building Code.

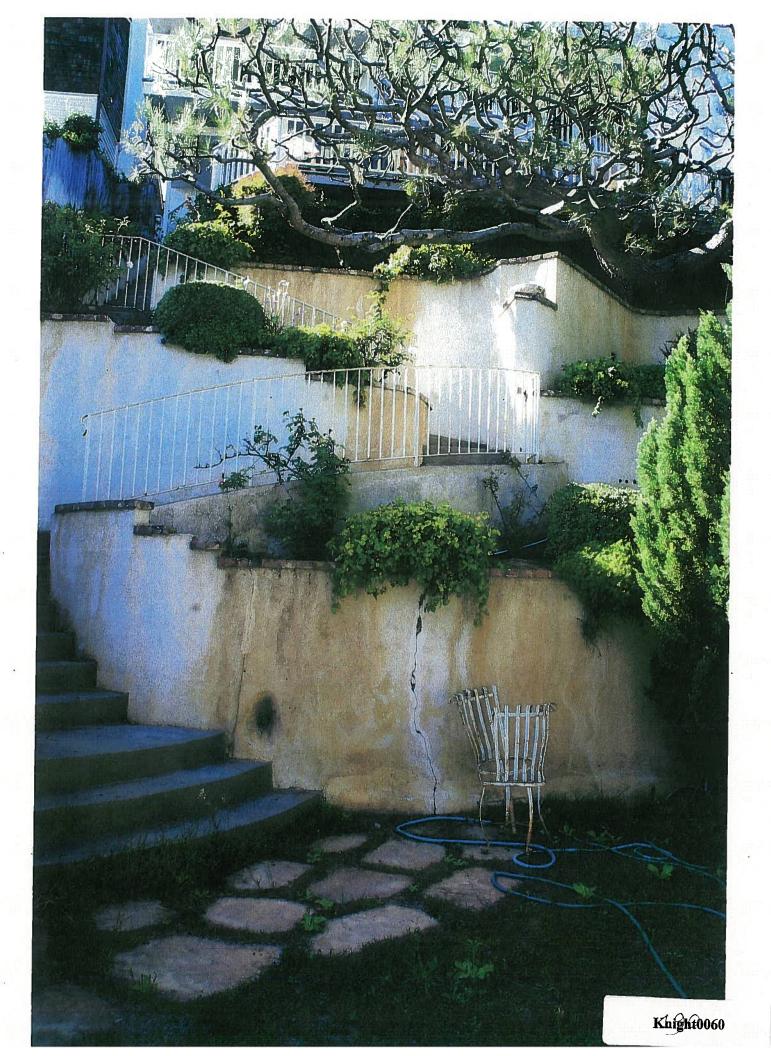
















Correspondence Item No. 4a

Burns, Marlene

Knight Residence and Ou Residence

(PA2013-044) and (PA2013-043)

(PAZ)

From: Nova, Makana

Sent: Wednesday, April 17, 2013 7:52 AM

**To:** Garciamay, Ruby **Cc:** Campbell, James

Subject: FW: To Makana Nova

Ruby,

Please refer to the comments received below for Item No. 4 for Planning Commission on Thursday. Thanks,

#### Makana Nova | ASSISTANT PLANNER

Planning Division | Community Development Department City of Newport Beach
100 Civic Center Drive | Newport Beach, CA 92660
P. 949.644.3249 | F. 949.644.3203
mnova@newportbeachca.gov
www.newportbeachca.gov

From: Gloria Tomer [mailto:gtomer@tulsaconnect.com]

Sent: Wednesday, April 17, 2013 1:34 AM

To: Nova, Makana

Subject: Fwd: To Makana Nova

#### Begin forwarded message:

**From:** Gloria Tomer < gtomer@tulsaconnect.com>

**Date:** April 17, 2013, 1:27:55 AM PDT

To: Gloria Tomer < <a href="mailto:gtomer@tulsaconnect.com">gtomer@tulsaconnect.com</a>>

Subject: To Makana Nova

Hello Ms. Nova,

We are latecomers to the discussion of 'sight line' approval by Newport Beach City Offices for

the two properties on Hazel in Corona Del Mar.

We were able to be here for the hearing on April 18 so

I am sending my thoughts just a day ahead, as we just arrived to evaluate the issues.

My husband and I bought the house at 320 Hazel Drive around 2010. It is next door to 316, and 2 doors from 312 Hazel.

Our house was built around 1950. Very little has changed on the outside, and updating has taken place inside, within the original footprint I believe.

We purchased this charming house mainly based on the following factors.

It backs up to a canyon with a flowing creek with abundant wildlife, including hummingbirds, hawks, croaking frogs at night, which we are particularly fond of!

It has a small distant yet Glorious Ocean View!! In fact I've noticed the Real Estate flyer's for our house, as well as the two properties (316, & 312)capitalize heavily on the words OCEAN VIEW.

At night I can hear the surf, And an incredible ocean breeze comes in right where our bed is placed, off the door to the balcony. My husband and I have the most restful sleep due to that sound coupled with the breeze and the croaking frogs.

In the daytime the house is flooded with sunlight.

In short, we Love this house, based on its location, and the physical descriptions I just gave. ALL of those reasons will be abolished with the extension of the sight line of #316, and possibly #312. The sun, the OCEAN VIEW, the breeze, possibly even the frogs, as they were greatly diminished during work on the canyon!

I can't emphasize enough what a negative effect extending those two properties will have on the gestalt of our home. We are from Oklahoma. We do not have an ocean there!! This is our retirement location we chose based on our good fortune of finding THIS house, on THIS street, with THIS view, sights, sounds, and sun exposure.

Clearly, real estate prices are also based on the luxury and rarity of OCEAN VIEW property, such as ours at 320 Hazel. Therefore, with the sight line changes that are proposed, we will lose a large part of our financial investment in just a matter of months of buying our house.

All of our friends and family say 'that sounds so unfair...why would that be allowed to happen?' I do not have an answer for them.

Sincerely, Gloria and Mark Tomer

Applicant Presentation
Item No. 4b
Knight Residence and Ou Residence
(PA2013-044) and (PA2013-043)

## **SheppardMullin**

# KNIGHT APPEAL 312 HAZEL DRIVE BUCK GULLY

## TIMELINE

2007 - Knight applied for building permit City applied "stringline" under NR 23.6 and CLP 4.4.3-18 to reject building permit Knight appealed

Planning Director found project consistent with Interim Criterion No. 7 and thus consistent with NR 23.6 and CLP 4.4.4-18

- 2008 Planning Director established "line of development" for principal and accessory structures on Knight lot
- 2009 Plans revised per "line of development" and building permit issued
- 2013 Knight requested reissuance of same building permit
  - City applied same "stringline" under NR 23.6 and CLP 4.4.3-18 to reject building permit Knight appealed

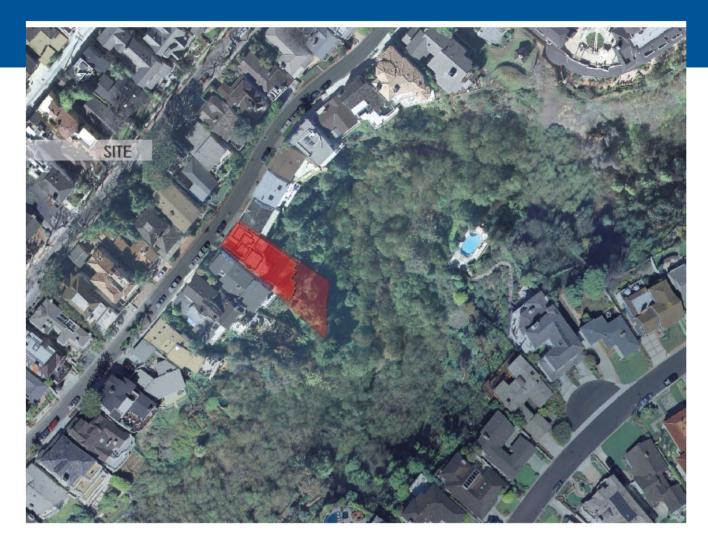
## 2013

NO CHANGES IN GENERAL PLAN, LOCAL COASTAL PLAN OR ZONING ORDINANCE GOVERNING BUCK GULLY SINCE 2007

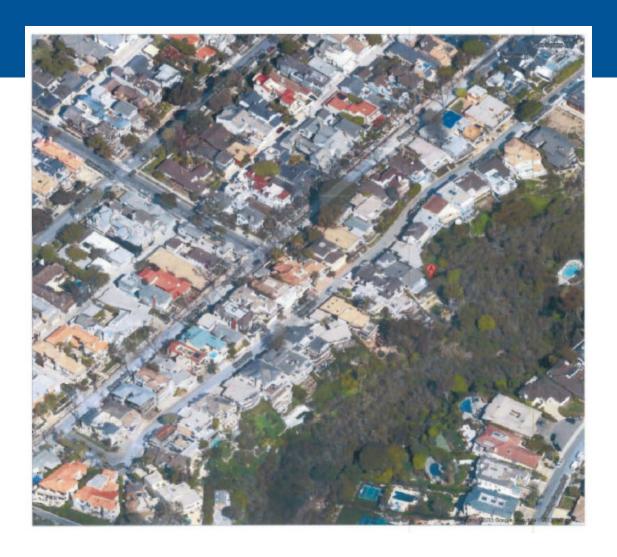
"PREDOMINANT LINE OF DEVELOPMENT"
STILL NOT ADOPTED FOR BUCK GULLY

IMPLEMENTING PLAN STILL NOT ADOPTED FOR BUCK GULLY

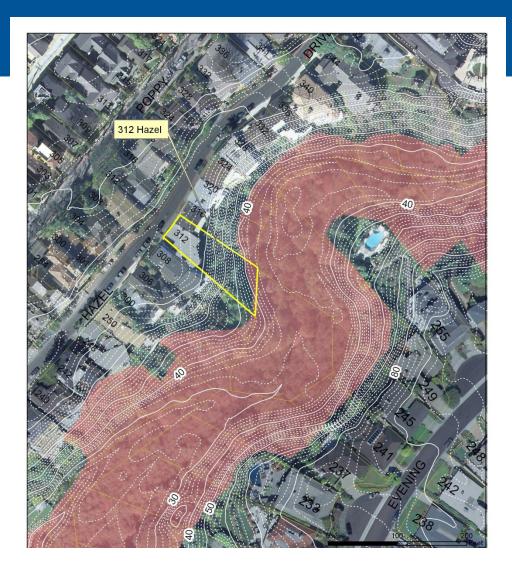
## **BACKGROUND FACTS**



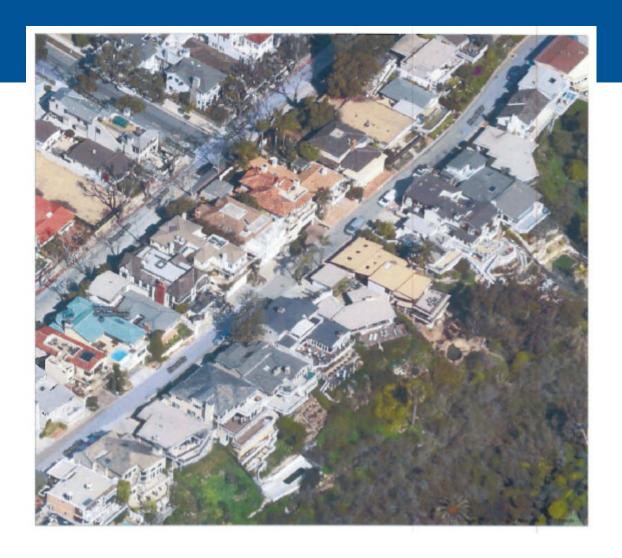
7,546 Square-Foot Lot – among largest on Hazel Drive above Buck Gully 1,540 Square-Foot Home – built in 1953, among smallest on Hazel Drive above Buck Gully



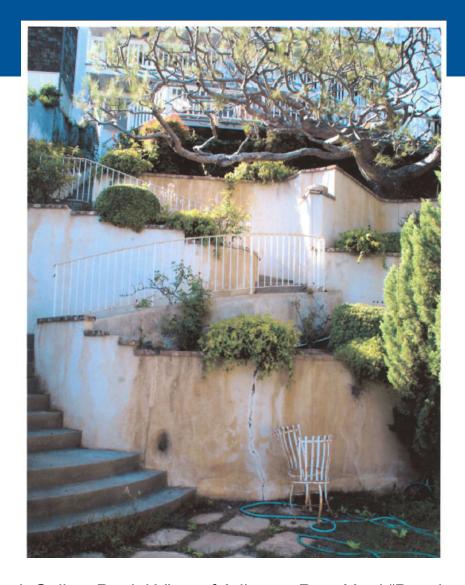
15 homes to south have been remodeled and extend further into Buck Gully 7 homes to north have been remodeled and 5 extend further into Buck Gully



Knight home is located between on large "transitional" lot between largest and smallest homes



"Development" as defined by the Coastal Act extends from Hazel Drive deep into Buck Gully



310 Buck Gully - Partial View of Adjacent Rear Yard "Development"



"DEVELOPMENT LINE" ESTABLISHED BY PLANNING DIRECTOR IN 2008

## THIS APPEAL IS NOT ABOUT A "STRINGLINE"

IT IS ABOUT WHETHER THE KNIGHT
BUILDING PERMIT IS CONSISTENT WITH
NR POLICY 23.6 AND CLP POLICY 4.4.3-18.

## Excerpt of NR Policy 23.6/CLP Policy 4.4.3-18

4.4.3-18 Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements.

THE PLANNING DIRECTOR FOUND THE KNIGHT PROJECT WAS CONSISTENT WITH NR POLICY 23.6 AND CLP POLICY 4.4.3-18 WHEN HE SET A "DEVELOPMENT LINE" UNDER CRITERION 7

## Ordinance 2007-3

A. <u>Purpose</u>. To implement applicable design policies in the General Plan Land Use Element until the comprehensive rewrite of Newport Beach Municipal Code title 20, Zoning is complete.

. . . .

**B.** <u>Criteria</u>. The following criteria shall be used in determining a project's consistency with the purpose of this Ordinance and with the General Plan.

## THE **PURPOSE** OF CRITERION 7 WAS TO DETERMINE CONSISTENCY WITH THE GENERAL PLAN

#### **OPTION 1**

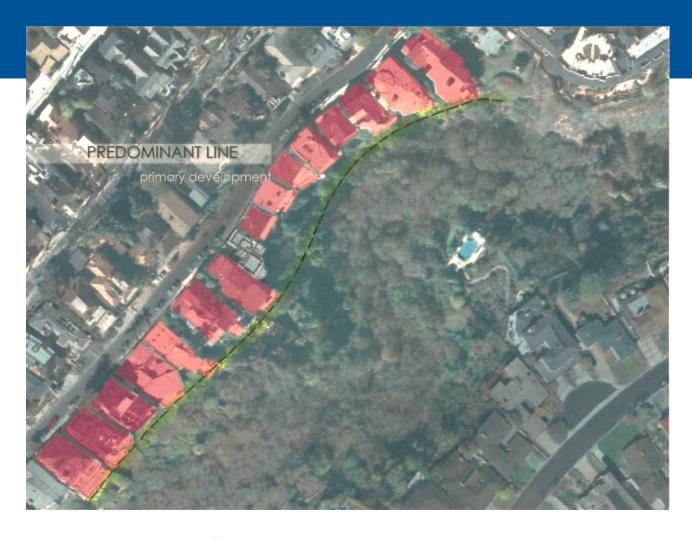
UNTIL THE BUCK GULLY "PREDOMINANT LINE OF
DEVELOPMENT" IS ADOPTED THROUGH IMPLEMENTING
REGULATIONS, THE PLANNING COMMISSION CAN
DETERMINE CONSISTENCY USING THE SAME POLICIES AS
THE PLANNING DIRECTOR IN 2008

#### **OPTION 2**

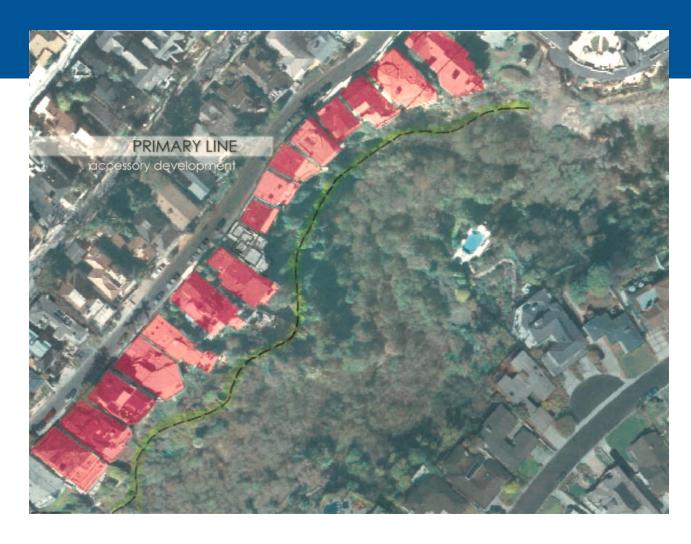
The "line of development" approved by the Planning Director in 2008 is consistent with **any** and **all** possible "predominant lines of development"



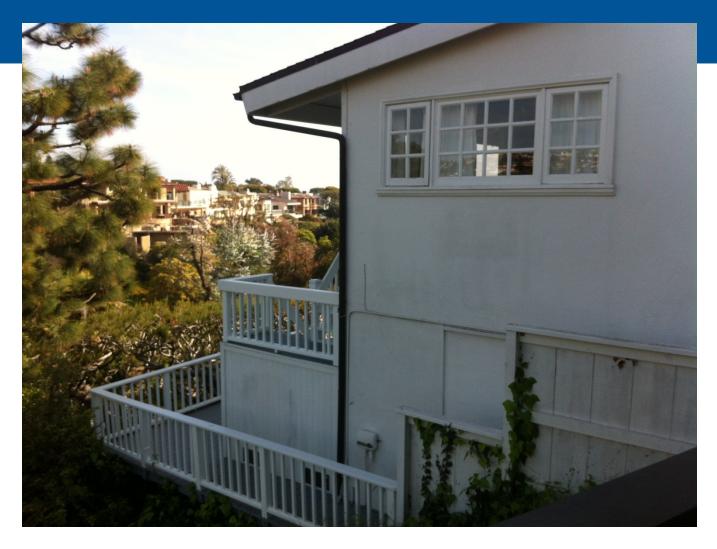
The "predominant line of development" considered by the GP/LIP Committee in 2009



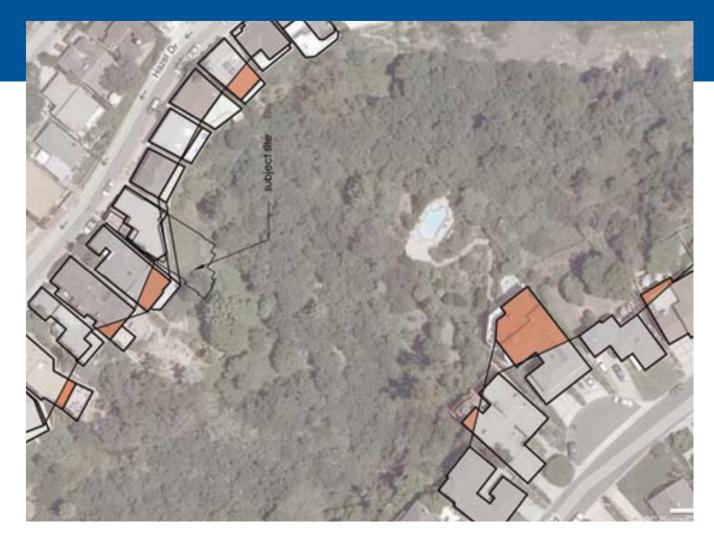
"Predominant line of development" calculated by Knight in 2007 – PRIMARY STRUCTURES



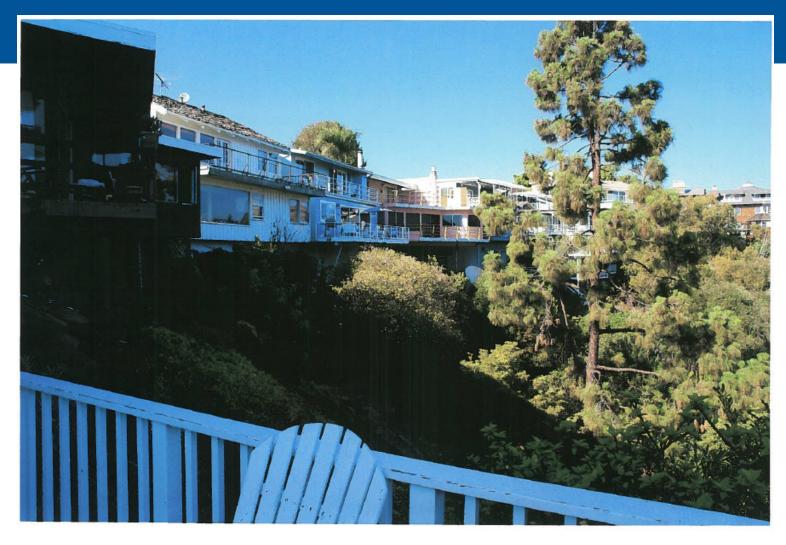
"Predominant line of development" calculated by Knight in 2007 – ACCESSORY STRUCTURES



View to south using Staff-proposed "Stringline"



"Stringline" on Buck Gully makes more than 30% of existing homes Non-Conforming

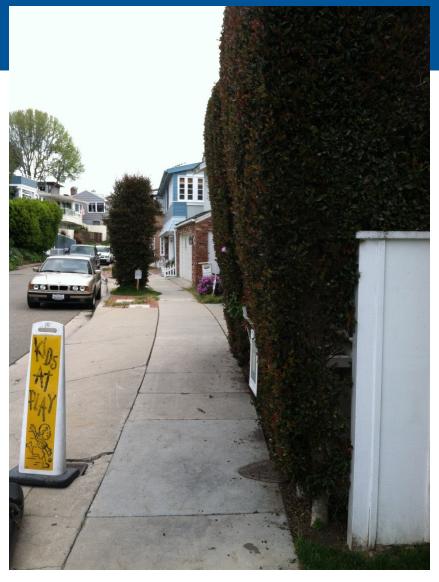


If used at all, "Stringline" should reflect similar topography, not just date of construction

#### **OPTION 3**



Stringline based on topography and existing setbacks



**Curve in Hazel Drive affects Buck Gully setbacks** 

### **CONCLUSION**

OPTION 1: GRANT APPEAL AND ESTABLISH KNIGHT
SETBACK BASED ON 2008 P.D. DETERMINATION

AND NO CHANGES IN GP OR LCP

OPTION 2: GRANT APPEAL BASED ON FAIRNESS AND NO

INTERFERENCE WITH FUTURE "PREDOMINANT

LINE OF DEVELOPMENT"

OPTION 3: GRANT APPEAL AND ESTABLISH KNIGHT

"STRINGLINE" USING BLOCK OF LOTS WITH

SIMILAR TOPOGRAPHY AND SETBACKS

Additional Materials
Item No. 4c
Knight Residence and Ou Residence
(PA2013-044) and (PA2013-043)

For Agenda Item Nos. 3 and 4 the following language was added to "Section 1 Statement of Facts" in the Draft Resolutions:

At the April 3, 2013, hearing, the Planning Commission continued this item to the April 18, 2013, hearing.

A public hearing was held on April 18, 2013, in the City Hall Council Chambers, 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

Correspondence Item No. 4d

#### Burns, Marlene

Knight Residence and Ou Residence

(PA2013-044) and (PA2013-043)

From: Nova, Makana

**Sent:** Thursday, April 18, 2013 12:02 PM

To: Burns, Marlene Cc: Campbell, James

**Subject:** FW: Rough draft 316 Hazel

#### Marlene,

Please refer to the comments for the Planning Commissions consideration, below. These comments are in reference to Item 4 on tonight's Planning Commission agenda. Thanks,

#### Makana Nova | ASSISTANT PLANNER

Planning Division | City of Newport Beach 3300 Newport Boulevard | Newport Beach, CA 92658 P. 949.644.3249 | F. 949.644.3203 mnova@newportbeachca.gov www.newportbeachca.gov

**From:** Gloria Tomer [mailto:gtomer@tulsaconnect.com]

Sent: Thursday, April 18, 2013 9:54 AM

To: Nova, Makana

Subject: Fwd: Rough draft 316 Hazel

#### Begin forwarded message:

From: mcdonaldcdm@verizon.net

**Date:** April 17, 2013, 10:23:24 PM PDT

To: <a href="mailto:gtomer@tulsaconnect.com">gtomer@tulsaconnect.com</a>
Subject: Rough draft 316 Hazel

Hi Gloria and Mark, Here is my rough draft for Makana.

#### Dear Makana,

Mark and Gloria Tomer, the owners of 320 Hazel asked me to make this request regarding the 316 Hazel Drive String line. I was their Real Estate agent in selling 320 Hazel to them in Jan. of 2011 and 320 Hazel was also my home for 30 years. Hazel was my "Farm" area also. I have sold approx. 35 homes on lower Hazel (Ocean side of PCH). I have also sold 316 Hazel 4 times, the last time being when I sold it to Dr. And Mrs. Ou. I represented the Seller. During that time, Bill Edwards, architect and owner of Planet Design did a potential rendering of what may possibly be built on the property, after we met with a Newport

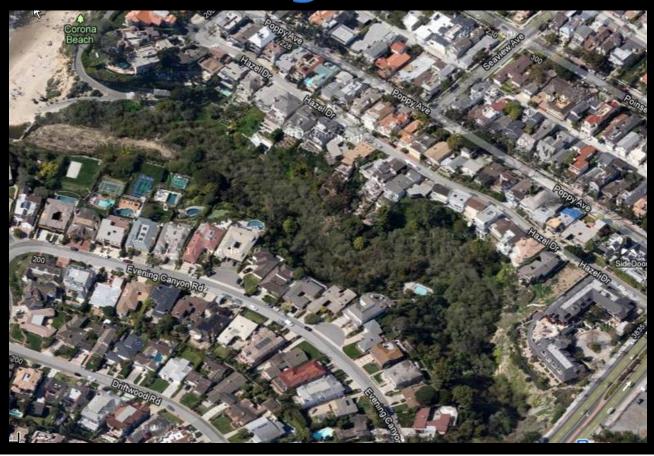
Beach City Planner. After the sale I believe Bill Edwards and the Ou's met with a City Planner, Bill came up with a proposed plan, and the original String line determination came out of that as noted in the 2008 Letter to Bill

Edwards from Jim Campbell. Bill had sticks in the ground to see how far into the canyon 316 Hazel would go. I, unfortunately do not have a copy of Bill Edwards proposed plan or rendering. We were very clear as to what the corner to corner string line would be.

It is important to note the sides of these homes are only 6 feet apart. The deck of both homes (as do most of the homes north starting from 316 Hazel to PCH on Hazel Dr.) extend out over a dramatic slope drop off of the canyon below. Encroaching out into the canyon and air space an additional approx. 8 feet and rising up approx. 12-14 feet, as well as approx. 12-14 below the deck, is a huge negative impact on the home at 320 Hazel. I feel a beautiful home could be built for a buyer who may purchase 316 Hazel, staying within the String line which the planning department determined in the 2008 letter to Bill Edwards and determined again on Feb. 3rd, 2013.

Respectfully, Patty McDonald Vice-Pres. CDM Homes...Real Estate

# Ou and Knight Residence



Planning Commission
Public Meeting
April 18, 2013
312 and 316 Hazel Drive

Staff Presentation Item No. 4e Knight and Ou Residences PA2013-044 and PA2013-043



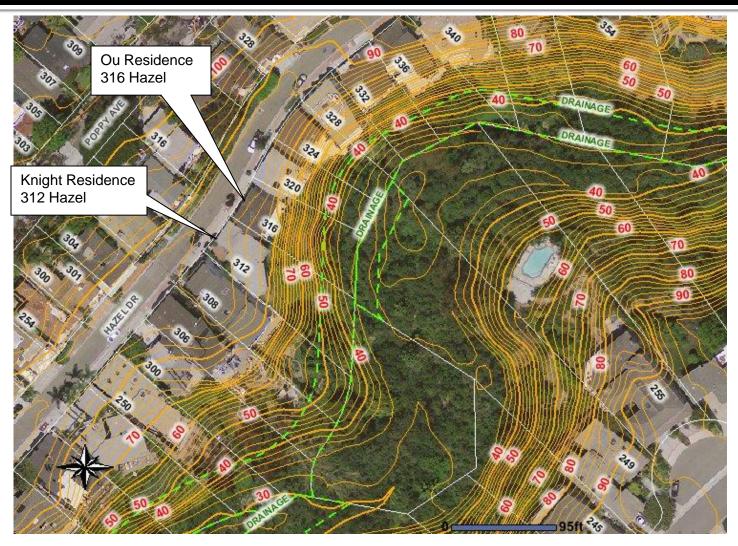
# **Buck Gully**





# **Buck Gully**





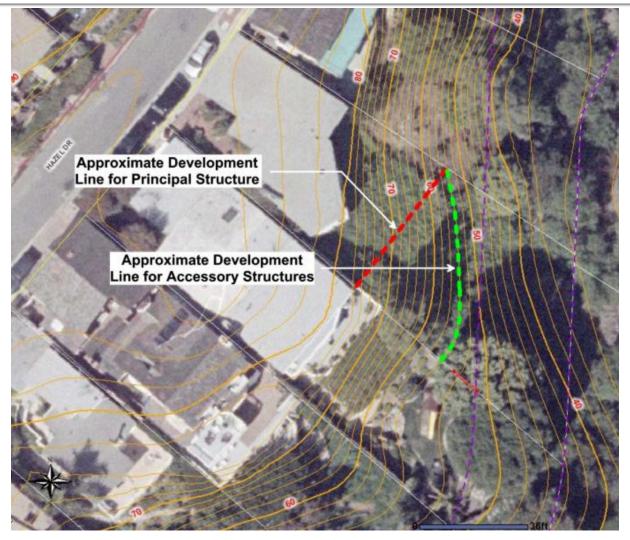
### Knight - 312 Hazel Drive



- Existing 1,540 sf residence built in 1953
- City identified development limits per Interim Criteria in January 2008
- Building permit is issued in August 2009
- Building permit expires in January 2011
- February 2013, the City identifies development stringline limit per General Plan & CLUP policy
- Appeal filed

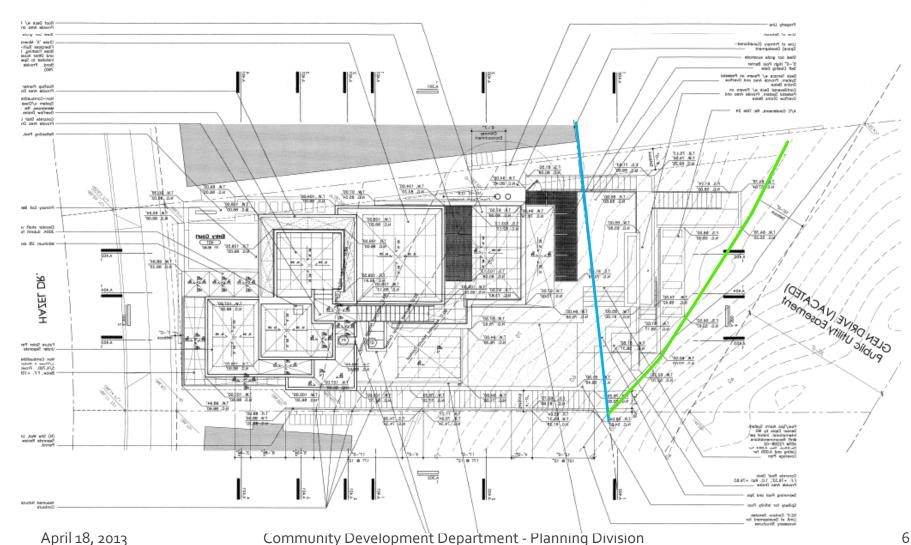
# Knight- 2008 Interim Criteria





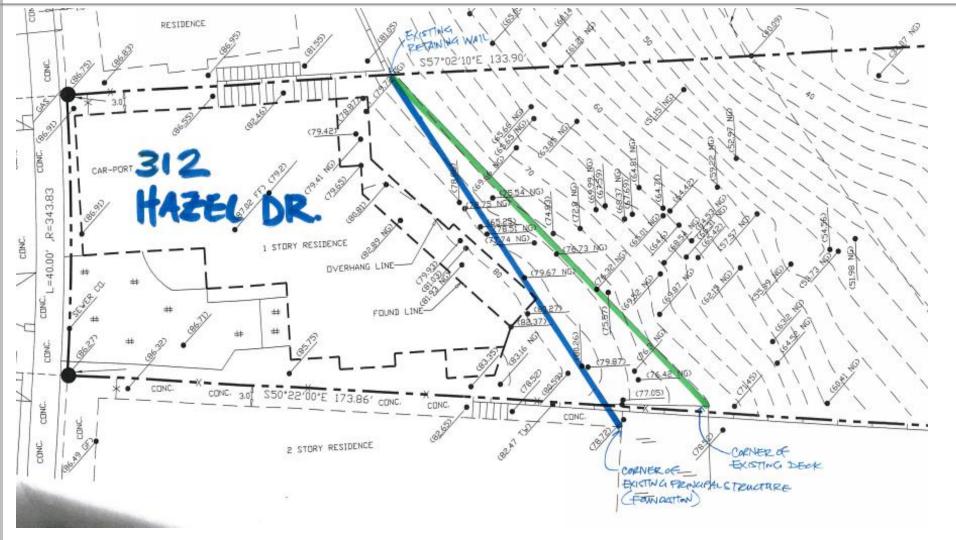
# Knight — 2009 site plan





# Stringline for 312 Hazel





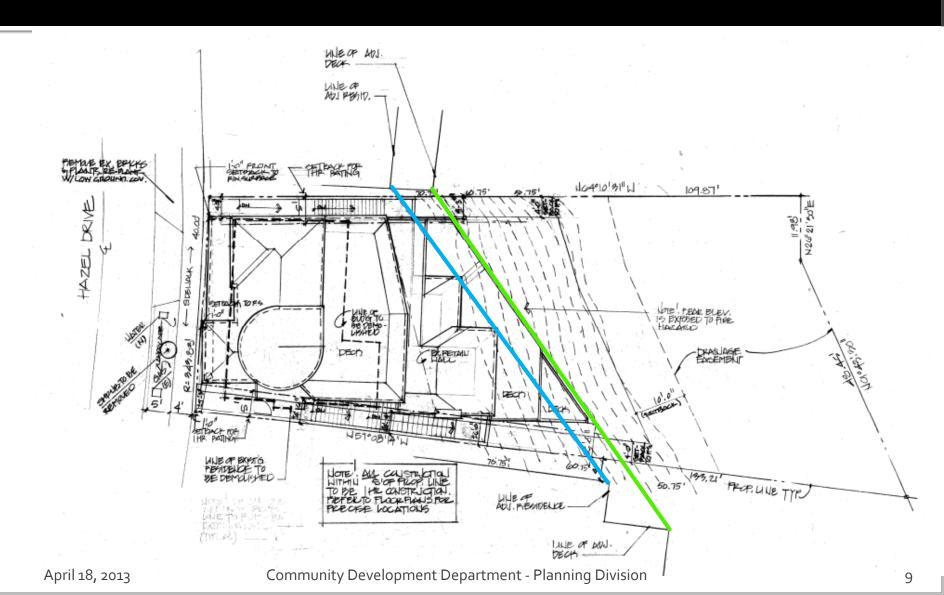
### Ou - 316 Hazel Drive



- Existing 954 sf residence built in 1949
- Building permit is issued in May 2010
- Building permit canceled in January 2012
- February 2013, the City identifies development stringline limit per General Plan & CLUP policy
- Appeal filed

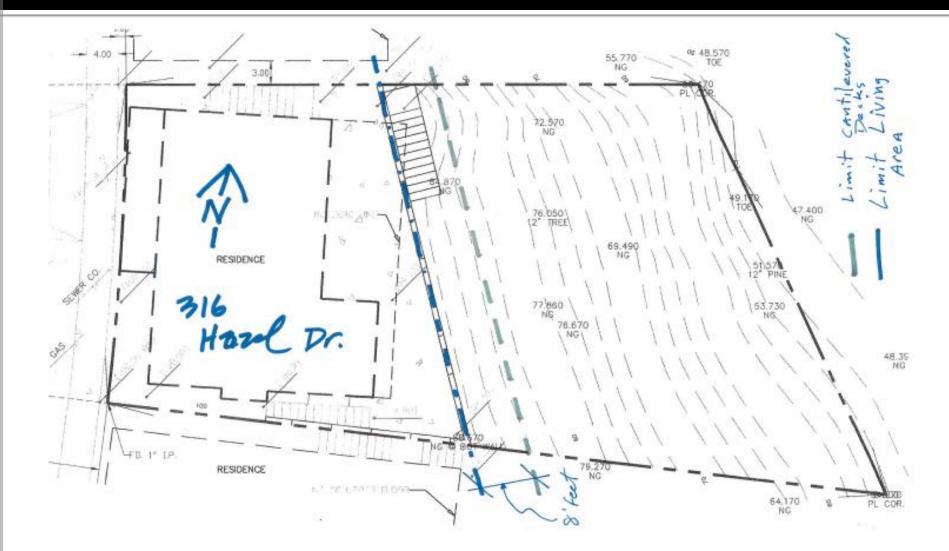
## Site Plan for 316 Hazel





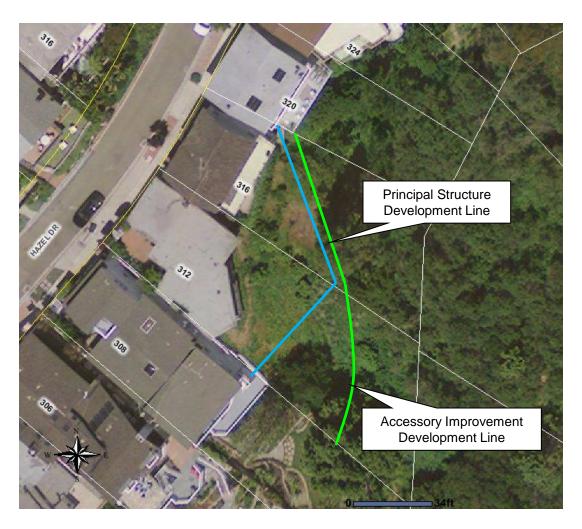
# Stringline for 316 Hazel





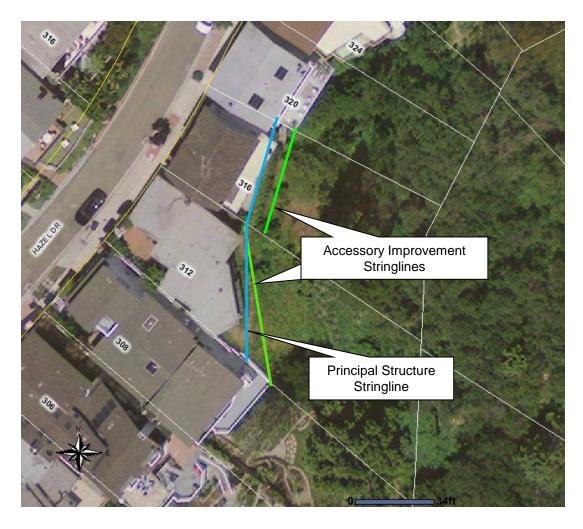
## **Previous Permits**





# February 2013 Stringlines





## Canyon Development



#### Goal

 Development respects natural landforms such as coastal bluffs (Natural Resources Element NR23)

#### Policies

- Preserve ... canyons ... and site buildings to minimize alteration of the site's natural topography and preserve the features as a visual resource (Natural Resources Element NR23.1)
- Design and site new development to minimize the removal of native vegetation, preserve rock outcroppings, and protect coastal resources. (Natural Resources Element NR23.7)

## Canyon Development



Establish canyon development setbacks based on the predominant line of existing development for Buck Gully and Morning Canyon. Do not permit development to extend beyond the predominant line of existing development by establishing a development stringline where a line is drawn between nearest adjacent corners of existing structures on either side of the subject property. Establish development stringlines for principle structures and accessory improvements.

(Natural Resources Element NR23.6 & CLUP Policy 4.4.3-18)

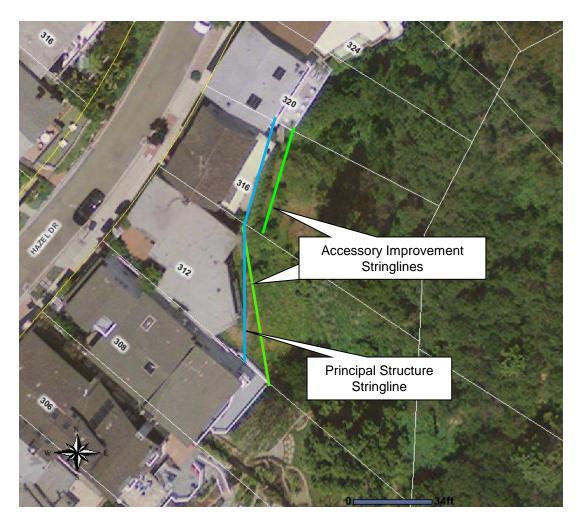
## Canyon Development



- No canyon development setbacks have been established using a predominate line of existing development
- Establishing setbacks is a legislative act assigned to the Local Coastal Program Implementation Plan (underway)
- Staff has been enforcing stringlines based upon adjacent development

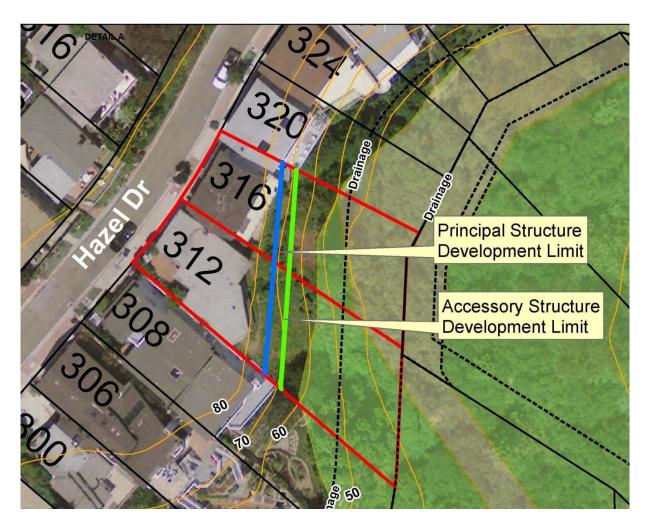
# February 2013 Stringlines





### Recommendation





### **Alternatives**



- Accept original stringlines identified by staff
- Identify different stringlines consistent with General Plan & Coastal Land Use Plan
- Staff believes both appellants' suggested development limits are inconsistent with applicable canyon development policies



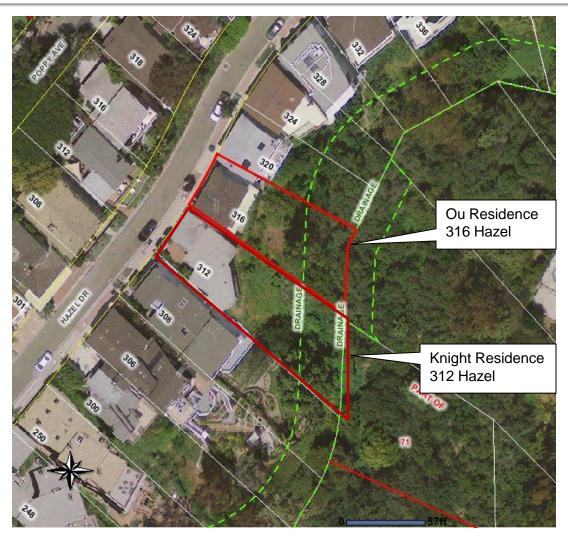
#### For more information contact:

Makana Nova, Assistant Planner 949-644-3249 mnova@newportbeachca.gov www.newportbeachca.gov



# **Location Map**





# **Buck Gully**



